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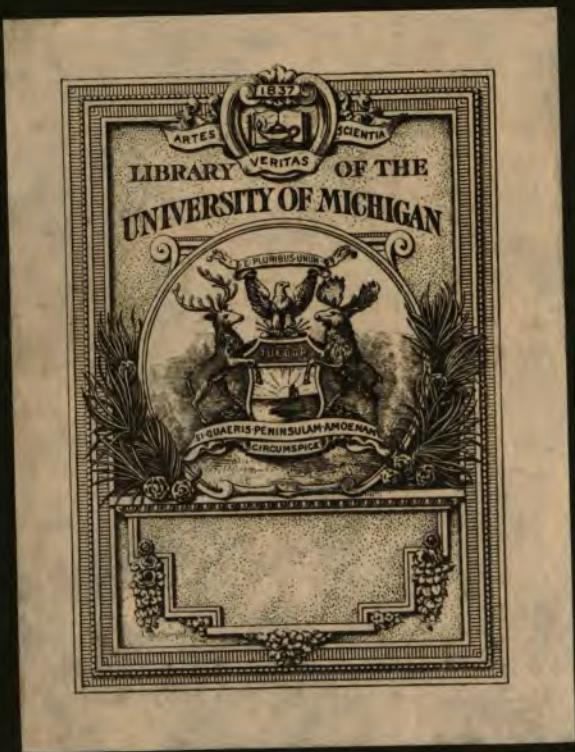
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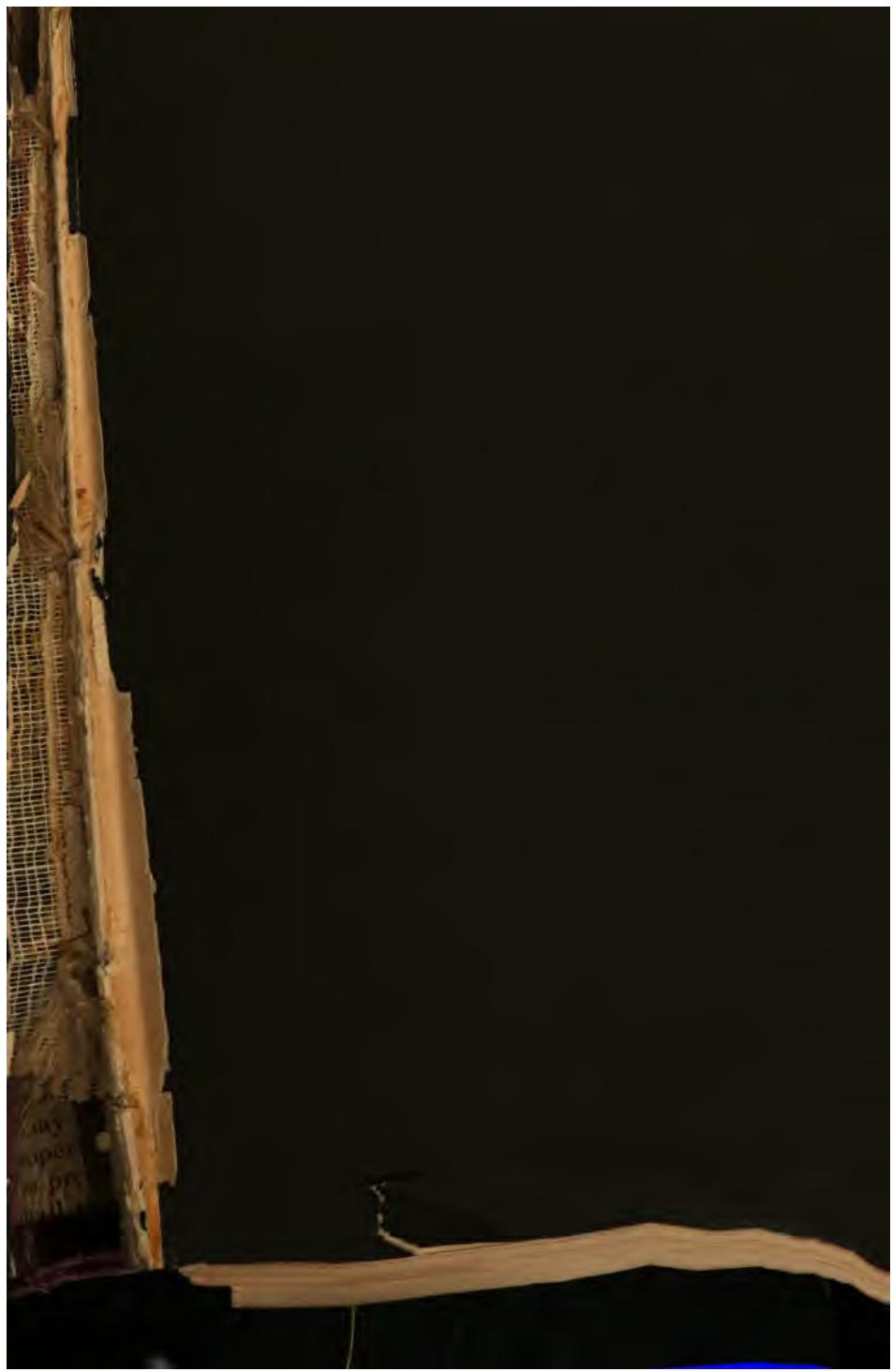
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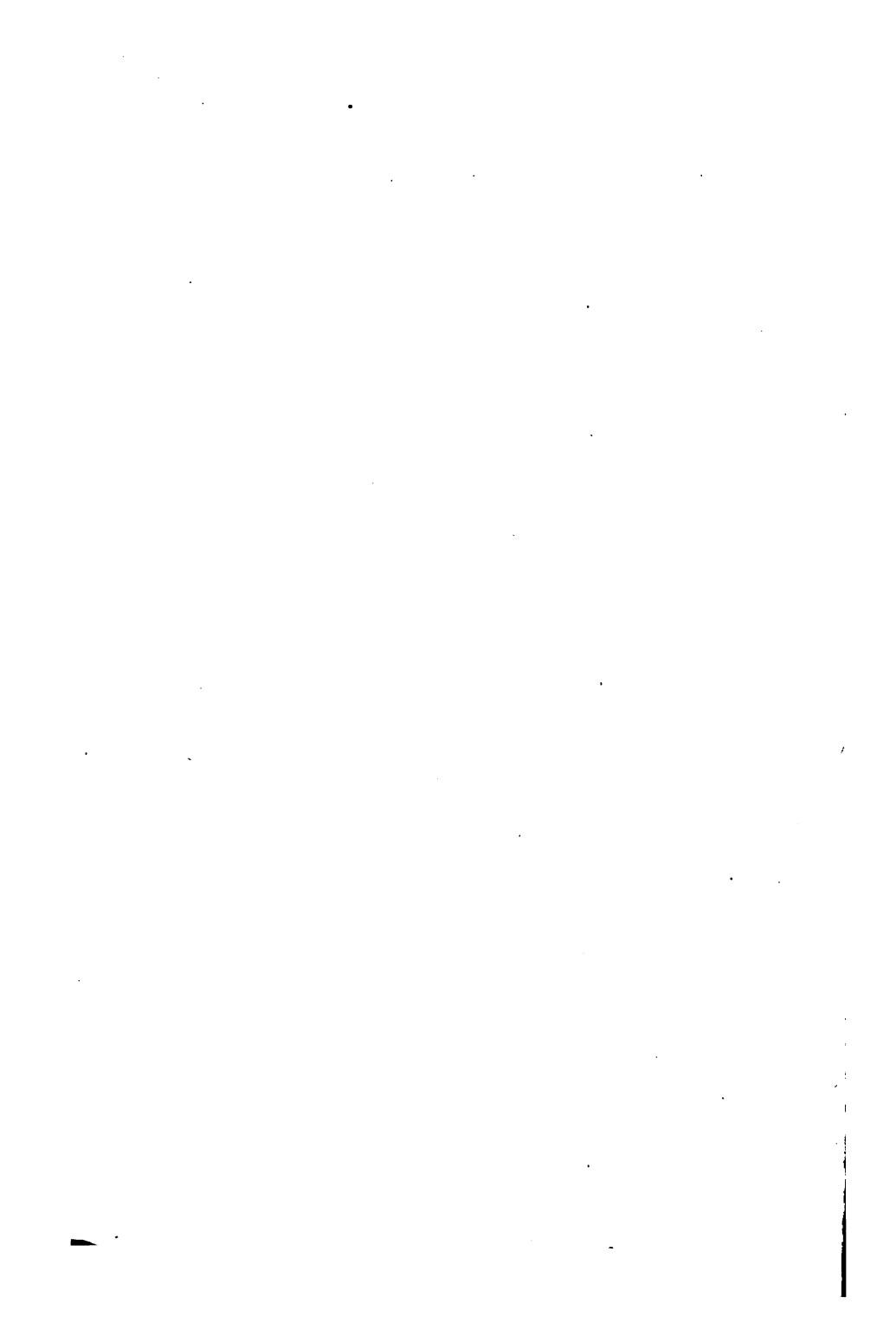
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1882



**THE SOCIAL LAW OF LABOR.**



THE  
SOCIAL LAW OF LABOR.  
*47961*  
BY  
WILLIAM B. WEEDEN.

"All are needed by each one;  
Nothing is fair or good alone."

EMERSON.



*SECOND EDITION.*

BOSTON:  
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1882.

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## P R E F A C E.

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1878

THERE can be no dispute between Labor and Capital, because they are the same thing, some say. But you cannot convince the man starting with his shovel Monday morning, that the ten milled dollars he hopes to receive on Saturday night are of one substance with the sweat and toil he feels must go with the shovel all the coming week. He would like to have the dollars by an easier process.

The contractor, who expects one thousand of the dollars now lying in a bank vault, and who sees, before he can obtain them, a possible outlay of three thousand during the week, in his struggle with unseen rocks, concrete gravel, treacherous morass, and sluggish workmen,—this contractor cannot believe that labor and the dollars embodying capital are precisely the same thing.

The capitalist who has loaned one hundred thousand dollars the previous week to many contractors, who has spent Sunday in nervous dread reading of strikes and of failures of construction companies, cannot be convinced that his capital and toiling labor are at that moment one substance. In his view the money was his ; it is

gone : some portion may return, much never can return.  
His agony is too deep for words ; it is beyond tears.

The economists have defined and carried capital or wealth too far away from this social movement, and have moulded it into something too rigid for this living process which throbs with labor.

Labor is living. Capital is a result of living. Life is always in persons, passions, affections, rather than in a thing which is cast into material form. The writer has looked at modern society from this point of view ; but modern life involves ancient life, and it was necessary to consider the question from the historic side. The social working of Labor and Capital in the life of to-day finds its counterpart in many old institutions. Some of these institutions the writer began to investigate for himself ; but latterly exhaustive treatises have appeared in several matters appertaining, which were not to be had when the work began. Parts of the essay within appear somewhat sketchy in consequence.

W. B. W.

PROVIDENCE, R. I., January 16, 1882.

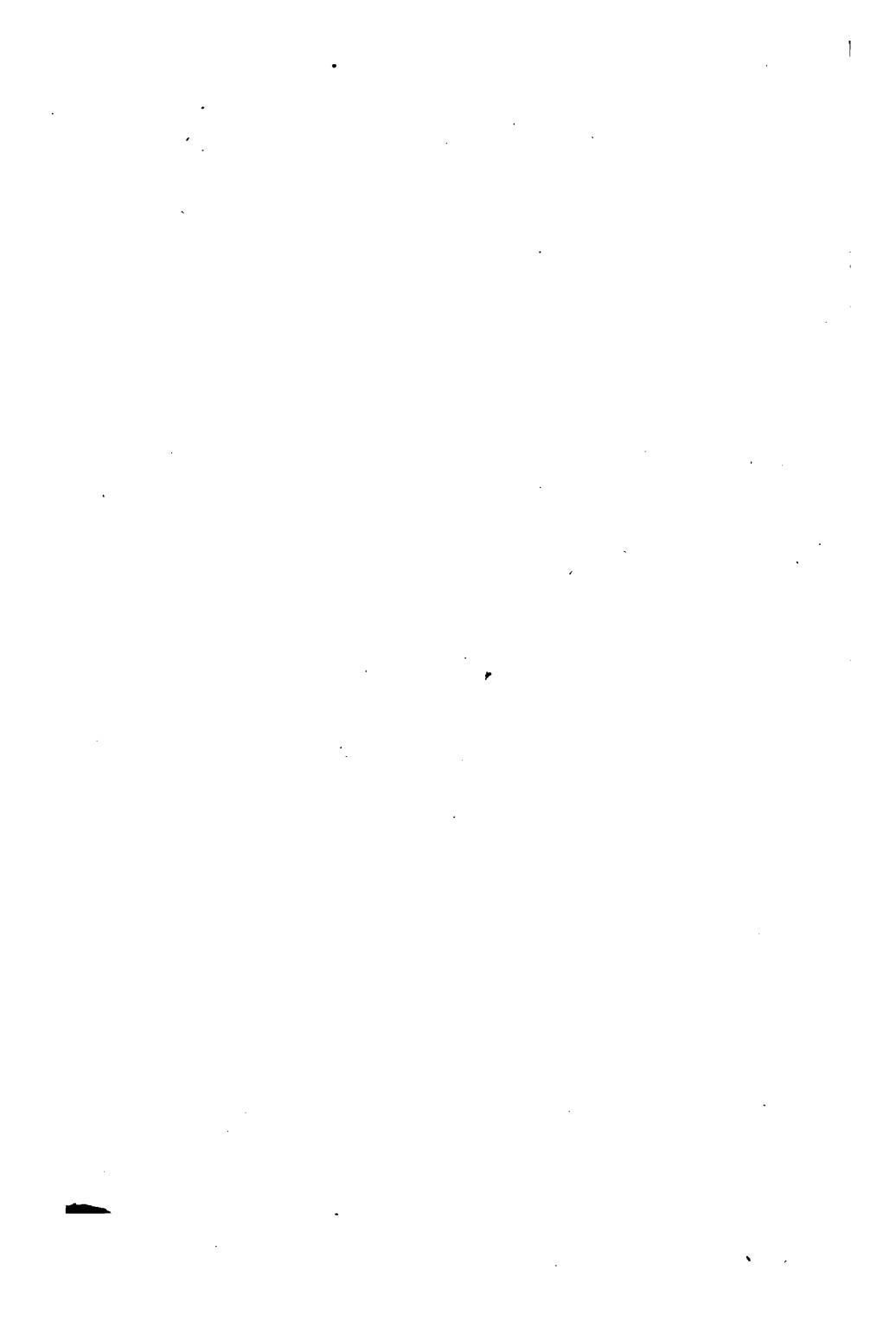
## **CONTENTS.**

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INTRODUCTION : THE SOCIAL LAW IS IN THE CONSTANT LINK BETWEEN CAPITAL AND LABOR . . . . .	3
I. PERSONS AND PROPERTY . . . . .	51
II. THE CORPORATION . . . . .	105
III. THE GUILD . . . . .	143
IV. LABOR ASSOCIATIONS . . . . .	189
V. CAPITAL . . . . .	239
VI. SOCIETY, NEW AND OLD . . . . .	271



## **INTRODUCTION.**



## THE SOCIAL LAW OF LABOR.

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### INTRODUCTION.

THE Labor question,—the right relations between Capital and Labor,—treated in various ways, occupies a large share of the public attention at this time. These discussions generally assume that the two terms represent opposing interests ; that this opposition is inevitable ; or that society must be made over and rebuilt, so that a new social order may redress the wrongs of one or the other interest. I propose to consider the matter as it now stands, and to treat it from a point of view which is not in the interest either of Capital or of Labor, or of any new form of society adjusted to the imaginary desires of the persons representing the one or the other of these great social factors.

In other words, if we had no society, we should have neither capital nor labor in the civilized sense which now belongs to those words. What new society there may be, no one can tell us. It is now, it is here in this society, that all the problems, interests, and desires of both Capital and Labor must be unfolded, reconciled, and settled. In every society existing, in every society possible under the present conditions of human civilization, a social law prevails, which controls the holders and users of capital as well as the agents and actors of labor,

and moves them all toward its own ends. The fulcrum of this law, the pivot on which every social movement turns, is in the fact that labor cannot become capital, nor capital come to be any other useful thing, without passing through a necessary change, a social transmutation. Let us explain. From Locke and from Adam Smith onward, many of the best men have said, Labor produces all things. Scores of writers agree<sup>1</sup> that "it is not capital which employs labor, but labor which employs capital."<sup>2</sup> They are all wrong, if they are thinking and acting under the fixed conditions of civilized life. Try the proposition out of your own experience; produce for yourself a single product of civilized life by labor alone. You say, reader, that you will go into the wilderness and bring back from virgin soil a bushel of corn untainted by progress, freed from the conditions of this jangling modern time.

We will leave out of the question the seed you plant, and only consider the spade you must have, or you would perish before your fingers could subdue the reluctant earth. The spade does not belong to labor, nor to capital *qua* capital: it belongs to society, though it exists in the form of capital. You say that you will win your product from old Nature in another form. You will go to the untracked forest, hew out a deal plank, take it to market on your own shoulders, and prevail over organized industry and commerce, by the labor of your own hands alone. The axe you use is not yours through the essence of labor, though you may have made it with

<sup>1</sup> "So that which Socialism wishes is not to abolish property, but, on the contrary, to introduce individual property founded on labor." — *Capital and Labor* (Lassalle), p. 256.

<sup>2</sup> George: *Poverty and Progress*, p. 176.

your own hands, instead of buying it in the market. The idea of the axe, its potentiality which enables it to prevail over nature, does not belong to you. This is the result of long generations of development, running from the time of the rudest stone tool to the elegant steel blade which now rings through the pine woods of Maine. This belongs to society ; neither the laborer nor the capitalist owns this principle, though either may for the moment hold the thing which represents it.

You and I, everybody, all acting together, beget a want, a social motive, which, issuing forth, sends the axeman to the tree, the log to the mill, the plank to the joiner, and finally *produces* this <sup>The Source of Production</sup> — the complex result of the whole movement. The labor theorists and all the economists cannot arrest this progression at any one point, and say, This is labor alone, that is capital alone, that is land (we include all the forces of Nature in the element land) alone. Therefore we say, neither capital nor labor employs the other. Society employs them both.<sup>1</sup> How it employs

<sup>1</sup> Those who consider this a difference of words or terms should study Lassalle's statement : "In the primitive state of individual detached labor from which we are descended, the instrument of labor — the Indian's bow — was productive only in the hand of the laborer himself ; consequently, it was only labor which was productive."

Then he says, at some length, that the person who makes advances to labor, in the modern division of labor, draws all its productivity to himself. "As before, it was only labor, at present it is only the instrument of labor, separated from the laborer, which is productive."

"This instrument of labor becomes autonomous, having changed parts with the laborer, reducing the living laborer to an <sup>Lassalle's</sup> inert instrument of labor, and developing itself, the instrument of inert labor, into a living generative organ ; that is, Instrument Capital." — *Capital and Labor*, p. 248. On this assumption Lassalle builds a theory which would overturn our present society.

To establish this argument Lassalle must find the Indian who invented the bow. That primeval character would be listened to with

them is not so apparent as the ordinary socialist imagines. Just here is the difficult step in setting forth the principles of social order, the enigma of simple everyday life.

Notwithstanding all the fine distinctions of the economists, dividing things into capitals fixed and circulating, wealth, commodities, land, etc., the common use of language is gradually throwing all these things into one term,—capital. Capital and labor represent to the popular mind substance and property on the one side, individual effort with brain or hand on the other. This popular use of the term capital (for it is quite modern) signifies some positive progress in our comprehension of the facts of our common life. It is often remarked that capital is labor saved,—“stored up,” is one author’s ex-  
Change of pression. This does not wholly explain the Labor into relation of labor and capital which we have Capital. sketched in our social movement. Some simple principles have been long in reaching our comprehension, and we believe this to be one. To illustrate: grass is a product of Nature; hay preserved and stored up is a product of civilization. Grass while being cut and cured is a joint product of capital and labor, and often perishes while passing into hay, which is a definite thing, and which can be handled like any other form of capital. This process of grass-cultivation and hay-making typifies every possible movement of labor and capital while operating in material values. The economists formulate labor, capital, rent, wages of superintendence, as the whole rule of social movement and of the science of wealth and wealth-

respect, should he discourse on the origin of society. But if the Indian with the bow is only a hypothetical fellow, we must treat him just as we treat any man who handles a tool to-day,—simply as a social agent.

making. No one of these terms expresses the delicate process of transmutation which capital and labor undergo from the instant they start to produce anything, whether it be a bushel of wheat or a chronometer watch. It has been said that the farmer is the greatest gambler we know. He who plants a seed,— a something of value, a necessary article of subsistence,— and trusts it to all the uncertainties of Nature and of labor, even though the labor be his own, commits his property and possibly himself to a most uncertain fate. But every operation of producer or exchanger is of exactly the same nature. The tallow and the alkali must be sacrificed, but the soap may not follow the effort. Flour, yeast, and fire are solid forces which are passing away; but the bread may never appear, or may be only a worthless cinder. This process, which is constantly going forward in our modern life, the present writer terms *capitalizing*; that is, the converting of capital and labor into more capital.

Whatever be the defining word, the principle must be held steadily in mind, or we shall fail to reach and comprehend some of the main springs in the life of modern society. It is not a force like capital itself, either active or passive: it is a function. This function must be embodied in a person,— just as teaching the mind is embodied in a teacher, or administering a steam-engine is embodied in an engineer. The administrator of capital and labor is not a mere middle-man, he is a capitalizer. He makes capital; he does that which capital cannot do for itself, and possibly what the holder of capital cannot do for it. He does the like for labor and the laborer; he is the active efficient agent of society at the moment when neither capital nor labor can act in themselves: but the deed

Social function of Capitalizer.

must embody the acts of the whole ; in other words it must become a social act. It looks easy, but the lack of this simple definition taken from the common experience of every-day life has caused many blunders in social science.

We have applied these principles to the conditions of our own time and the life which surrounds each one of us. We must now try them on a broader field, and ascertain whether they can be applied generally ; whether they have a sure foundation in actual facts ; whether they reveal that orderly succession of results which alone can justify the name of law. And before going further in our study, we must carefully distinguish between those institutions and phenomena which are social and those which are partly social and partly religious and political. Religious and political systems vary according to the historic conditions in which they are found, and wherever they are found ; but the nineteenth century is gradually assimilating purely social life to one standard, or to the essential elements of one standard. This principle is not confined to civilized peoples alone ; it extends also to those half civilized and barbarous communities which are now feeling the inflowing tides of civilization, and putting on the habits of more cultivated peoples as far as they can, and especially in social affairs.

Why is it that when a new territory is discovered, and a new race of humankind is brought into contact with our social system, cargoes of goods can be assorted and adapted to unknown wants, directed to unknown shores, and find ready use among unknown persons ? The love of war, the sentiment of worship, the displays of vanity, the greed for wealth,— all these are widely dis-

tributed motives which influence all races of men everywhere. But these passions, though universal in their influence, when taken singly or separately will not interpret the life of savage races, nor that of civilized communities, nor the commingling life which flows between.

Or we may turn our thought and apply it at the other end of the route. A savage finds an elephant's tusk in the inmost jungles of equatorial Africa; he or his fellow brings it out on his naked shoulders with a weary tramp over desert and morass for thousands of miles. The negro porter transfers it to the trader, who exchanges it for the goods from a Liverpool ship, and at last it reaches Paris, the central workshop of civilization. The Parisian ivory worker, at once artisan and artist, fashions this raw material of Nature into a fan which may be wielded by the hand of an imperial lady. This transaction begins on the lower plane of savage life, and ascends by regular steps until it reaches the higher wants and tastes of mankind. This article of commerce and manufacture, this resulting product of Nature, savagery, and civilization, represents a combined movement, a social current.

It is common to represent trade as a mere means of gratifying the love of gain. This love is a powerful passion and certain in its effects, like hunger and thirst, or other animal impulses; but it is not the most powerful passion among any people savage or civilized, and it is strictly subordinated to other great impulses,—just as the animal desires are regulated by principles which are stronger than passion itself.

The elephant's tusk is more than trade: it represents the social movement. Nowhere can you arrest this thing in its progress from the wild jungle to the work-

Connects  
Civilization  
and Sav-  
agery.

bench of the Parisian, where his delicate hand and artist brain convert it into a thing of beauty; nowhere can you pause and say, This part alone is capital, and this part alone is labor. Social progress, the life of Nature and of man, have concentrated themselves in this elegant substance, and the result can be awarded to no one person of the many who have contributed or are contributing to this onward movement. The fortunate finder of the tusk, of that utility and value, which was wasted in the desert, does not own the results which shall follow from the new utilization of a decaying product of Nature; no more does the skilful Parisian own the process, the long evolution, by which the valuable material has come to his waiting hand.

Supply and demand, abstinence, parsimony, productive and unproductive consumption,—none of these terms into which the economists render their principles suffice here, though they touch upon the facts. There is a stronger force at work, a force of forces, which moves the whole economy of Nature and of man. At times it even controls political economy in the highest sense; for it makes war or peace, and directs whole nations along the lines which must give it movement and free play. I shall call this principle the *social need*, — not to replace the economic formulas, but to complete their chain, to render the idea we have illustrated, to indicate briefly that region where human will and human circumstance combine and issue in a new force. This expression “social need” demands an immediate explanation of the word Society; and we must go back to the roots of that term, which means so much that the surface word often misleads. In trying to assume all that we are, we often forget what we have been.

Society in the races of Aryan descent or of Aryan language has some leading characteristics common to them all. Other races also cherish institutions and social customs which in certain

Origin of  
Aryan So-  
ciety.

features are like the primitive ways of that great Asiatic family which has stamped its controlling influence on the whole world. These points of similarity and of difference have caused much discussion, reaching into all the social sciences. I do not propose to enter upon disputed ground. I shall discuss the institutions of the great Teutonic and Celtic nations, using the experience of other peoples, so far as it is known to us, only to illustrate the customs of Western Europe and America.<sup>1</sup>

When we reflect upon the wonderful organism which surrounds each one of us, the great institutions,—the State, the Church, the Family, the Individual,  
 —arise and fill our minds with their large proportions and their closely related functions. In ancient society these social entities did not exist, or existed only in embryonic form. The tribal organization, which comprehended the military and political life of our forefathers, was the rude germ

State,  
Church,  
Family,  
Individual,  
Modern,  
not An-  
cient.

<sup>1</sup> In this limitation I do not mean to slight the great work of civilization already done by the Slavic race. The experience of these peoples if fully recorded would probably throw into clear perspective the history of our whole civilization. The Slavic development differs from other Aryan experience in that it minglea a greater variety of forces at the same time. In Slavic experience the early systems of social life were broken into and modified by influences of a later time and a newer growth, which came from peoples in a very different stage of development. In the present state of our knowledge, a stranger can hardly distinguish between the purely Slavic institutions and those which are Neo-Slavic, or produced by the sudden and often arbitrary interposition of ideas drawn from Western Europe.

of the State; worship was conducted by the tribal medicine-man, or by the householder; the family in our domestic sense was unknown; the individual,—a self-poised, independent, thinking member of society,—did not exist. If we would know the true relations which the parts of our present social organism bear to each other, we must study the genesis of those parts. Though these early germs unfolded and became the basis of our present institutions, yet in the beginning they were something quite different from the structures which we see to-day.

To begin with the Family. As Dr. Hearn has well shown,<sup>1</sup> this modern word only misleads the student of archaic society; and the idea is still more deceptive than the word. Our family is based on the union of one with one. These two units each carry within themselves certain highly organized social and religious functions, and these enter into the common bond. But it is a purely social institution. In some countries a few decaying political privileges cling to it; but, broadly considered, the family has now no political, legal, or religious functions. In ancient times the facts were directly reversed. The Aryan householder or house-father was the head of an association of individual men and women. They might be of one kin, but not necessarily so; and in fact adoption was a tie second only to kindred in bringing together the individuals thus Old House- associated. The basis of this association was hold an as- not in blood, or political duties and privileges: sociation. it was in religion.<sup>2</sup> The world of spirit was infolded with the world of matter in those days as it is now, though our knowledge of matter and the expression

<sup>1</sup> Aryan Household, p. 63 *et seq.*

<sup>2</sup> La Cité Antique, p. 41.

of spirit have changed. The human soul when it left the earth did not then cease to be: in the concrete notions of those days a spirit was departed, removed, but not remote. The great overwhelming idea of spirit, so familiar to the later societies and to our time, was far beyond the conceptions of our simple-minded ancestors; they were entangled in the many ideas of their many spirits who were ever near them. These spirits were the souls of departed relatives, and especially of the dead householders,—the vanished heads of these associated groups which embodied the life of the ancient world. These spirits<sup>1</sup> were powers for good or evil, according as they were well or ill disposed toward the mortals who were under their daily influence. Numerous facts are cited from the experience of many peoples (by Fustel de Coulanges and Dr. Hearn, as well as others) to prove this profound principle which underlay the development, and which affects the organization, of every community at this day. When a Fabius could leave the Roman capitol besieged by the Gauls; leave in his sacred vestments, and bearing the instruments of sacrifice in his hands; cross the territory held by the enemy, and perform the sacred rites of the great Fabian gens on its own altar,—it is evident that a solemn ceremony transcending all ordinary duties, and regardless of the power of an enemy, was demanded of him. The life of the living was still affected by the lives of the dead; the fathers absent were yet present in spirit, and compelled service from the greatest individuals in the greatest State. In later and better attested times, the great Fabius Cunctator, though commanding against Hannibal, when the day of the annual sacrifice came, left

<sup>1</sup> *La Cité Antique*, p. 19.

his post and went to the same Quirinal hill to discharge the duty due to his dead ancestors.

The Aryan household was a distinct institution based on this worship of deceased ancestors. "The practical object at which it aimed was the regular and proper performance of the *sacra*,—that is, of the worship peculiar to the household. The machinery by which the *sacra* were maintained was the corporate character of the household, and the perpetual succession of the House Father."<sup>1</sup>

From our point of view, this is a strange and repulsive system of beliefs and of social life. But what could be more natural to the simple savage or the untutored barbarian? Though we habitually treat him as old, we must remember that he was actually very young. Nature, which the fast following generations of his children have harnessed into hard worlds of matter, was to him the unfettered domain of spirit. He was surrounded above and below, in earth and sky, in air and water, by an invisible world, not of spirit but of spirits. No mere figments of the imagination were these kobolds Old spirit-world, and fairies, no airy nothings were these unseen without. but not intangible beings. They were potent creatures, sometimes inclining toward the good of man, but oftener ready to wound and annoy the weaker child of earth encumbered by the ills his grosser body carried with it. Among these creatures the spirits of the dead ancestors were always present. In the childish Aryan mind all depended on the disposition of these near relatives,—near in a sense we can hardly conceive of, and related, not by our methods, through the sympathetic action of our own minds, but through the external action

<sup>1</sup> Hearp : Aryan Household, p. 63.

of another will,—the restless motion of that form which Hamlet saw, always ready to re-enter upon the scenes of his mortal life, and to meddle again in the affairs of this world. If these spirits, the natural friends of the mortal, were well disposed, then all would go well; the son's arm would be strong in the fight, his cows would not labor in vain, and would yield copious streams of milk to his pious hand. Later on in Aryan history this propitiation of spirits became more generalized, and the personal tie was widened into a relationship with all the fairies. The bowl of milk is probably set for Robin Goodfellow in some parts of England to-day; certainly the custom was in full practice a generation since. Myriads of facts from the history of all the Aryan races show the universality of these beliefs and the deep influence they have exerted on the manners, the religion, the sentiments, and the imaginations of our kindred peoples.

The early man wrapped in these beliefs, possessed by the tormenting fear and the bright hope of the unseen world around him, sought to gain the constant aid and sure support of his spirit ancestors. He must first secure a place of abode for the dead as well as for the living. There is some doubt whether the dead were always buried within the walls of the house; but they were certainly laid there before burial, and the most careful ceremonies associated them with the domestic shrine,—the Hearth. For around this hearth the Lares of the household, the familiar spirits who haunted their former abodes, dwelt, and blessed or cursed their descendants according to their merit or demerit.<sup>1</sup> No domestic

<sup>1</sup> "While the conduct of the primitive man is in part determined by the feelings with which he regards men around him, it is in part determined by the feelings with which he regards men who have passed

meal was complete without a sacrifice of food to the spirits. Fire burned away the physical substance of the offering, but it also set free the finer essence, the immaterial viand on which the ghostly attendant could nourish himself and bless the willing hands which piously fed him. "The hearth was thus, so to speak, the organ through which the living maintained their intercourse with the dead."<sup>1</sup>

The Anglo-American *home*, the Gothic *hairms*, the Scandinavian *hiem*, are rooted here in these early usages and customs of the household; they were familiar before the idea of family, in our modern sense of the word, was born into the world.

Around this hearth and dwelling-place they drew a sacred line, and the ground within was consecrated to the *Lares* of the household. Whether it was a thin space between the walls of city houses, or a furrow-mark ploughed through the wide fields of the country, it was the same enclosure. It shut in the spirits of the household; it shut out other spirits; and the most solemn services sanctified the ground to the household,—the members in the flesh propitiating those who had passed beyond earthly limits and dwelt all around, in the air above and in the earth beneath the sacred hearth. This community of living, this sympathy between the living and the dead, was symbolized in the common meal, of which as above mentioned both the present living and the absent dead partook, each in his own method. Sacrifices which afterward were hallowed to the worship

away. From these two sets of feelings result two all-important sets of social factors. While the *fear of the living* becomes the root of the political control, the *fear of the dead* becomes the root of the religious control."—*Sociology* (Spencer), i. 456.

<sup>1</sup> Hearn : Aryan Household, p. 49.

of the gods alone, generalized as I have termed it, were then made to the *Lares*, to the familiars of the household,— those immediate spirits whose presence so powerfully affected the daily life, the happiness or the suffering, of these simple men and women.

It is amply proven that all this complicated system of living and of dying,— this procession of men walking, thinking, and feeling in this world, but through every act and every desire meshed in the influences of another world,— was not based on the ties of affection and kindred.<sup>1</sup> If the housefather had a son, he was his natural successor, and discharged the duties of head of the house. The father often adopted a son<sup>2</sup> who should succeed to his rights. The custom of Tanistry, or an elected successor in the joint family, is supposed to have originated in the same way. It was a del- Mainspring egated power; or in other words it was based in association, not in on social custom, instead of descent by blood kindred. and kindred. This was a later custom, when property was a larger element in social life. The strong motive in the early time was the religious one: the father must look to it that a pious hand be ready to offer to his fleeting spirit the same fond duty, the same constant sacrifice, which his ancestors had received from him.

This system of beliefs and of customs resulted in an organism partly domestic, partly social, which in the early times led men forward into higher forms of life. This system was based on religion and religious feeling: according to their belief, it was religion of a thoroughly practical kind. Later religions place the springs of love, charity, and good-will in service to our neighbor and our

<sup>1</sup> Hearn : Aryan Household p. 28.

<sup>2</sup> La Cité Antique, p. 56.

brother,—to man who is our brother. But when the believer was accompanied in every act by swarms of related spirits, religion naturally impelled him to serve those beings, to propitiate them by every pious offering he could make. This was the mainspring of the system I have sketched; other forces contributed and were accessory to this central power of religion. The ties of blood, the care and descent of property, the military spirit,—all were included in the usages of the household. But these subordinate institutions, which afterward developed and became the prominent supports of domestic life, were overshadowed in the early time by the mastering influence of religion,—the actual presence in this life of beings acting with the powers of another world.

“The household was thus an association formed upon religious belief and contemplating religious objects. But it was something more: it was a permanent association. It was not intended to pass away and be re-formed like the generations of men. It was constructed, and was meant to endure forever. It was in our technical language a corporation. It had perpetual succession. It included in its members both the living and the dead.”<sup>1</sup>

The house-father, the head of this association, was a priest, a petty ruler, an administrator of property and business, in the days when there was no religion or state or affairs in the signification we attach to those words. All the children, women, and associated kinsmen, all the resident aliens, the slaves, and other dependents, were said to be in the hand of the Head of the house. These were not accidental members of the association. The new-born child was included in the

<sup>1</sup> Hearn : Aryan Household, p. 66.

group by formal ceremonies,— a part of the *sacra*. No illegitimate child could be thus included. All Based on Persons, not on Property. the members were brought into the sympathy of the common meal and embraced in the protection of the *sacra* by carefully prescribed rites. The property which the father inherited he did not hold for himself, but in sacred trust for all these inferiors and dependents who were integral parts of the household. Land especially was inalienable: a person might easily be deprived of his liberty, but never could he be stripped of his right in the ancestral land. The tendency of modern society has been in the reverse direction. We make every sacrifice to protect the liberty of the meanest individual, while property even in land follows the will and the caprice of its individual owner.

The household is prehistoric; we can trace its existence through the mists and shadows of the early time, but its origin and orderly development are lost in that dim distance. The details I have stated are clearly made out however, and many institutions in Greek and Roman, in Indian and Germanic life can be comprehended only through a study of the growth of the Aryan household. The joint family and the village community following the institution of the household, partake of its characteristics. These organizations exist to-day in India and the southern Slav countries. The important part they discharged in early civilization has been fully recognized by Maine, Sullivan, Laveleye, Morgan, Hearn, and the many other writers who have studied them.

The *gens*, or kin, or clan, was the larger body in archaic society which included the household, and it is held that it was founded upon the household.

"The clan had a common worship and a common tomb ; it had common property ; its members had mutual reversionary rights in their separate property ; they took charge of the person and the property of any clansman that was under any incapacity ; they exercised full powers of self-government, and maintained for the purpose a suitable organization ; they acted together in avenging wrong done to any of their members ; they rendered, in case of need, mutual help and support."<sup>1</sup>

As we have seen in the household, kinship was a common but not necessary element in the relations of the clan. The founder of a clan was primarily its progenitor and natural head. The descendants sprung from his loins and associated with themselves other persons, by adoption and by the various obligations of dependence growing out of war and poverty. This was the simple process of evolving a tribe from a hero or strong man of the archaic time. If descent by blood be the natural process, there was a constructive or artificial Gens and process quite as effective as lineage in forming Eponym. the organized body of the tribe or clan. It is supposed that the Eponym was the original House Spirit,<sup>2</sup> the *Lar familiaris* of the Roman household, whose influence was extended into the wider group of the clan or gens. The traces of this familiar spirit appear to-day in India, Persia, Russia, in the Scandinavian and German communities, as well as in the recorded institutions of Greece and Rome.<sup>3</sup> It is not necessary to follow in detail this discussion ; it is clear that "wherever there was a clan, there was an eponym, or founder, whether

<sup>1</sup> Hearn : Aryan Household, p. 113.

<sup>2</sup> Ibid. p. 143.

<sup>3</sup> Morgan finds the equivalent of the Roman *gens* in the Iroquois Confederacy of North American Indians. "Ancient Society," p. 85.

real or legendary, of that clan.”<sup>1</sup> The element of personality, call it human or divine as you will, lies at the foundation and penetrates to the core of every social organism. A powerful man creates a lineage, a household, or a tribe. *Per contra*, a tribe, any organized group of archaic society, must look back through legendary mists to the enlarged features, the deified proportions, of a hero.<sup>2</sup> The name was the symbolic essence of the man, and it was an essential part of the kin which fondly traced its descent to the heroic founder. Whether the founder were an actual historic personage or not, was of little consequence. The eager demand for a founder, a person, soon passed through tradition into legend, through legend into myth, until the features of the hero were indelibly marked in the consciousness of the tribe. The clan is not a decayed patriarchal family,—it is a growth beyond that institution.

The gentile worship, the *sacra* peculiar to the clan, have left fewer traces in history than those which can be found marking the existence of the household. The rites of the great Fabian gens, already alluded to, were not singular; they were significant types of the deep respect which gentile tradition brought over from the early Aryan periods to the comparatively recent Roman civilization. Dr. Hearn supposes that the “tomb was to the kin what the hearth was to the household. It was the abode of the gentile Lares.”<sup>3</sup> The hearth, the shrine of the household, had aroused the warm current of life which, setting forth through the channels of kin-

<sup>1</sup> Hearn : Aryan Household, p. 145.

<sup>2</sup> “Romulus, Eponym of Rome, is probably one of those etymological inventions so dear to the ancients.”—*Dictionnaire Universel* (Larousse),—Article, Eponyme.

<sup>3</sup> Aryan Household, p. 119.

dred, extended into the circles of adoption without losing its kinship, while it circulated in the blood of the tribe far beyond the narrow bounds of our modern family sympathies. Cousins in the sixteenth degree are held in the close embrace of Irish and Highland Scottish clans. The common tomb concentrated this sacred relationship. The ties of blood were strong, not alone through kinship and actual physical descent, but through the religious and familiar life, the deep social sympathy, which common meals, common worship, common property, and a common tomb had enkindled among rude archaic men. Our emblem of generosity, of the absence of self, is patriotism. This social life we treat was created before the basis of the patriot existed. As Kemble<sup>1</sup> pointed out, the fatherland was unknown to the Germanic tribes in early times. They were peoples, and not organisms rooted into the soil, like modern nations. The early rulers were kings of the French and of the English, not of France and England.

My purpose has been to suggest, rather than to define or prove this interesting process of development. That person must be poor in historic insight who cannot discern, in the abundant material furnished by our modern scholars, the orderly progression of the Aryan customs and civilization. Some steps may be broken or lost to our present vision; but they are not destroyed or wanting, for new evidence of the lost parts is being revealed almost daily.<sup>2</sup>

<sup>1</sup> The Saxons in England, ii. 23.

<sup>2</sup> We leave by the way problems of the deepest interest, — why the North American Indian could reach through the clan to a confederacy, and could not found a nation; why the Chinese and Japanese could build enduring civilizations, while the Malay crumbled; and, above all, why the negro could remain in the half-light of barbarism, while culture

The savage and later barbarian lived a rude life, not independent but helpless, bound in traditions, wrapped in superstition and abject ignorance. The Helpless Aryan householder and clansman rose out of this weak condition, subordinated himself to his ancestors, founded the family, and, greatest of all, inspired his posterity with the germs of individual freedom. He marked three continents with his footsteps, and tracked his way among barbarian tribes and Oriental despotisms, their natural lord and ruler. The Greek citizen educated this free, roving spirit into that finer social life, that mutual intercourse of the city, which knew neither lord nor subject. The Germanic nations, according to Mr. Freeman, gave to political development the one principle which the admirable Greek city lacked,<sup>1</sup> — a fatal want, which kept the loftiest citizens the world has known from attaining the higher growth of the true State. This was the representative principle, the organization by tens and hundreds, the settled system by which chosen men could act for all, keeping the rights of all while administering their own. Over this political and social movement the Greco-Hebraic system of the Christian Church shed the purer light of a higher and a wider religion.

Our question, What is society? has answered itself. It is not an agglomeration of individuals; it is not a bundle of families, though this latter institution comprehends so much of the dearest life of each one of us; it is not the domain of the Church, though the Roman

blazed all around him. These questions will be solved only when the whole nature of man, religious and social as well as physical and political, is rendered in the full light of future science. It is enough for us to study our own ancestors.

<sup>1</sup> Comparative Politics, p. 192.

Catholic organization, with historic sagacity, has clutched at the control of these very social issues I have sketched; it is not the State, which embodies a Creation. Modern Society is justice, and which, administering between individuals and institutions, must leave large realms of social life untouched. It lies deeper than either of these four factors of civilized life, for it is older than any or all of them. Society is not a social compact;<sup>1</sup> it existed in germ before there was any pressure to pack human beings together; its motive principle comes from within, and not from without. It is the divine afflatus of civilization, the breath of God among men, love made manifest in human institutions, without which even religion as well as politics and material industry would fail in bringing happiness to each human being.

We have now reached the essential meaning of the word *social*; for while Labor is the first individual effort, Capital is the first social factor: and this proposition causes important results, as will appear at a later stage of our discussion. We can to-day study savages eating roots pulled by their own fingers, or subsisting on fruits grown ready to their hands; but if we would comprehend any social life rising above the rudest stages of primitive ignorance, we must begin with Capital in some form. The rudest civilization involves a tool and some accumulated substance, if it be only one day's meat. These accumulated sub-

<sup>1</sup> This theory of Rousseau and other French theorists is not dead. See "Revue des Deux Mondes," vol. 32, p. 765. Fouillée opposes Maine, Bluntschli, and others, who hold the State to be a historic growth. He calls it "a vast contract of association, the most general of all, in which all the others will find their place and guarantee." He also calls it a great circle including all other circles; and this outer rim is maintained by universal suffrage. Some practical results of this philosophy will be found worked out in our account of the International.

stances, whether simple or highly artificial, are known in popular language (and there is no better term) as Capital. For Capital is Labor fruited, saved, and preserved.

The first physical condition of all social life is Capital; or, as above stated, this is the first social factor. We can hardly conceive of a true political organism without land, the basis and solid foundation on which the political functions rest and maintain themselves. So society would be impossible without Capital in some form, which shall embody aspiration and affection, consolidate ambition and energy, satisfy appetites and desires, convey mere individual impulse into organic social life. Labor has place here, but in essentially different functions. Labor is of the individual, and no individual can escape the obligation he owes to his swaddling blanket: so much capital he must have.

The central force of society, which we have called social need, affords the nerve power, the impelling principle, which moves capital and labor alike. The void in the Parisian market calling for ivory, was the main force in bringing the elephant's tusk out of the African jungle. Labor was an incidental force, just as gravitation is contingent to the stroke of the laborer's pick. This social need follows various laws, and moves in many channels; but it is a universal principle. No philosophy or science, be it political or be it economic, is true, unless it grounds itself on this principle, and finds its laws in the wants and desires of men and women, as well as in the physical conditions which limit them.

Having considered Society as the outgrowth of history, and Capital as the substance and physical embodiment

of that growth, we will now turn to the individual members of that organism. Of these members, laborers form the largest constituent; and no social system is good, unless it gives to the toiling many the best opportunity possible in the immediate conditions of life. Labor, the institution which embodies the functions of the civilized laborer, is no less important than Capital,—each is related to the other; but the correlation is complete,—either can be a whole without the part which is in the other. Consequently, when theorists claim all for Labor alone, they break the historic chain which I have sketched; they shatter the social foundation on which civilization rests.

Every member of a civilized community, and especially of an Aryan community, has inherited the historical development above stated, and carries it within himself. The lowest civilized being is greater than the highest savage; not that his individual ability is equal to a superior native man, but that he carries in his own structure all the possibilities of civilization. The modern laborer does not differ from any other member of society in his individual or primary rights and duties. Every member of society has these primary functions, which are two-fold and may be thus stated:—

1. We have his right and duty to exist, and to try to subsist.
- Their Primary Rights. 2. We have his right in the common accumulations of society, its political, religious, and social structure,—its organic form, so to speak, as distinguished from the matter on which that form rests,—and his corresponding duty to maintain and improve this social structure.

For example, though he cannot primarily possess

another's material property, though he does not own the gold in the capitalist's coffer, yet he owns just as much of the king's head or the republic's eagle on the coins as the capitalist or noble owns. We must keep constantly in mind this distinction between material, solid, actually-to-be-handled things—Capital—and immaterial, ideal powers, which are social and belong to everybody. The thing—gold, iron, coal—is a care and a trust; the use of the thing is social, and belongs to everybody.

At first sight, this right of existence, the primary function of the laborer, appears to be very simple. But in fact it is one of the latest results of civilization and Christian philanthropy. The comparatively recent race of Arabs once buried their daughters alive, because they found them troublesome baggage. The great Napoleon, within a century, roasted the opposing Mamelukes when he found them to be an inconvenience. Crippled, incapable, and aged persons were sacrificed to social exigency when the world was younger. Modern society not only permits but compels every member to live: it is the primary right of existence, involving duty to God alone. The subsistence of the individual is another matter, and society never undertakes that without incurring the gravest risks. As this right of existence is socially conceded, I shall drop it from the argument, and speak of the right to try to subsist.

We start with a social group which could not exist without capital, nor without labor and laborers, nor without the social need proceeding from the wants, desires, and energies of these varied persons, — which need is generally manifested through definite persons and classes of persons whom I have called Capitalizers, making the third term in

Modern Social Group.

the social problem. One person may and often does discharge all three functions in himself. He may be his own capitalist, his own laborer, his own energizer and interpreter of the social needs around him. The name matters not, the principle is the same. Small farmers, and the class of peasant proprietors, now so much coveted by all countries, are almost always capitalizers. They administer their own capital, they labor with their own hands, they hire also the effort of laborers who may depend on this immediate labor for the day's subsistence. No society can be healthy and stable without a certain portion of this element in some form, a certain share of these small owners and operators. Neither can any society achieve great results which does not add to these small operations the larger accumulations of capital and the social life proceeding from it,—the larger enterprises of the master capitalizer proceeding from the greater social need of a wider civilization.

Now, keeping in mind that any person may have either or all of these social functions, let us consider what are the rights and duties of each class as a class,—the separate and inevitably separate character of these functions as they must act in every well ordered society.

All have the right to exist; and every right involves a corresponding duty. The laborer<sup>1</sup> has (1) the right to try to subsist; (2) the right in the social (not the material) accumulations of society: as I have termed Rights. It, the form of social life, as distinct from the matter through which that form articulates. The tradi-

<sup>1</sup> Méliton Martin, in his ingenious little book "Le Travail Humain," has recognized this two-fold relation of the laborer to society. He expresses it in his formula of wages: "The pay of every laborer is com-

tions, the glories, the discoveries, the ordered methods of a nation or a race, belong to each individual alike. The Minerva, the spirit of wisdom, the dignified action of the goddess, the creation embodied in that sublime form, belonged to every Athenian, as well as to the sculptor who rendered it visible to the natural eye. But the marble in the statue, the matter through which these ideas were conveyed, belonged to the man who bought the statue and paid for it.

The capitalist, the owner of capital,<sup>1</sup> has the right to the possession of his material substance, the values and the representatives of values he may have acquired under the laws. This right is not given to the holder of capital by reason of any particular affection which society has for him. As a matter of fact, most capitalists have been rather unlovely characters. Dives has never been popular. The instinct of possession and pre-  
servation is not a pleasing or a social attribute. And for this very reason all social systems have been forced to take much care of capital and of the

Rights of Capital.

posed of *burdensome utilities*, the amount of which is in proportion to the efforts he brings to production, and of *gratuitous utilities*, the amount of which is increased prodigiously by the abundance and security of capital." p. 175.

<sup>1</sup> Professor Émile Accolas is one of the latest and certainly one of the most learned writers in the school of Rousseau. He cannot follow his master in the idea that property is a purely social institution. In this connection he gives the term the same meaning which we give to Capital : " As to the general basis of property, it is in the nature of man, in the organization of this being who never feels himself so well bound to the whole that he does not seek to make himself the most personal, the most free that he can, and whose perfection consists in being in effect the most personal, the most free that he can. Or, property is an extension of the personality, proceeding from human liberty ; it is the only means by which man can move at his will ; it is for him the only means of arriving at the possession of himself." — *Philosophie de la Science Politique*, p. 49.

instinctive creature which had just mental capacity enough to cherish and husband its possession. For, as above said, this capital is the first social factor, the necessary element on which society depends; and for this reason the social system has always preserved it jealously, and has found by experience that its preservation has been most successful when carried on through individual hands. Hence individual ownership and private property.

The idea of the Minerva was worth so much that somebody must charge himself with the especial care of the marble; and he received his reward through the instinct of possession. Gold was so expensive, it was so dear, brought from distant deserts or delved from deep mines, that society must see that the precious treasure was not wasted, ground back into the particles of earth from which it was rescued with such pains. This one function is all that the capitalist can have unto himself, — this right of possession, this economy of material substance. He cannot use an atom for himself alone. The moment he would gratify an appetite or a taste by the outlay of a single farthing<sup>1</sup> he becomes a minister unto the social need, a member of society using his substance for the mutual gratification of all the other members. He could once keep his substance in suspense, and bury his talent in the earth. But increase of capital has become so certain through the operation of interest, that

<sup>1</sup> This matter of reasonable expenditure each will construe for himself. Baudrillart (*Histoire du Luxe*, i. 98) sensibly says: "First, we can justify morally only that kind of luxury which tends to raise the level of the masses, instead of tending to lower their souls and characters. Second, we can justify economically only that relative and allowable luxury which really stimulates labor, and which tends to create more capital than it destroys."

even avarice, once the neutral enemy of thrift, now forces the owner of capital to put it to instant use, thus causing it to minister to the daily life of society.

The simple rights of Labor and of Capital would be of little practical value, if they were not penetrated and energized by a third right, that of the Capitalizer. No modern civilized society could exist on the simple functions of labor and capital; that is, to do, to enjoy, and to keep. The use of capital, the fructifying of the social factor into new social factors which all may in turn possess, brings into play a new class of faculties and a new class of persons. The movement of capital may be initiated by its owner, just as the laborer may till his own ground or hammer at his own leather and last, in a simple, half-developed state of society. But in fact this sole use of capital grows less frequent as time goes on. The ownership of modern capital is more widely diffused than is generally supposed, and the majority of these owners cannot make a social use of their own material substance. This inorganic force which is in gold or land must be interpenetrated with the organic force which is in the laborer. But the process involves a new set of organs in society to play between the laborer and capital. In simple warfare the chieftain could direct his warriors; in a civilized army these two functions are wide apart. The general can never say to a line of privates, "Fire!" So in the modern use of capital and the social activity of labor there is a minute organism partaking of the nature of both, but devoted to neither exclusively. The dynamic movement<sup>1</sup> of capital and labor requires an ample

<sup>1</sup> This dynamic movement under any social system soon creates privilege and vested rights, which become capital under certain condi-

protection from society, just as the possession and care of capital must be secure, or the whole basis of social action tumbles down. Society, as well as the State, looks

Dynamic Movement of Social Group. to persons, or to the fiction of persons, for the discharge of its functions. Therefore this dynamic movement, this action by which labor and capital are brought into social life, is delegated to individuals, or classes of individuals, whom I have called Capitalizers. These are not simply undertakers, inter-takers, or enterprisers. You do not say to your shoemaker: "Buy me leather, waxed thread; let to me the use of awls and last; hire for me two days' labor, — for all which enterprise I will pay you a given sum."

Illustration of Shoe-making. You say: "I want a pair of shoes suited to my particular feet." He says: "The best combination of material, labor, and skill to be had in the market I shall put together here in an article like this, and you may have it fitted to you for ten dollars." He transmutes the capital of the materials, the labor of the workmen, with your want, into a new form of capital, which is money. There is no part of the process which belongs exclusively to either one of the parties to the transaction. The tanner did not create the leather, nor the workman the shoe; no more did the shoemaker make the foot which was to wear the finished product.

tions. This region becomes a debatable land between my three terms, and especially between capital and capitalizing. This territory is constantly narrowing, and the social arrangement is always tending toward the divisions I have made. Privilege, where it has a legal sanction, is materialized, but it is through a medium differing from the ordinary matter which forms capital. The social principle is the same, though its form of expression is different. The privilege of baron, count, or duke was not essential in him, but was given him for an equivalent he had rendered, or was supposed to have rendered, to the whole community.

Possibly you might have preferred to save ten dollars, and travel with bare feet, if it were not for the custom which prescribes decent shoes. It was a social action; and in the transaction society employed the shoemaker, who must look to it that society suffers no harm. No incompetent tanner, no greed or neglect of the workman, must prevent you from obtaining the worth of your money in the shoes. If the shoemaker charge you too much, another will soon displace him. He must look to it that you do not fail to pay, or in that event society would furnish you the shoes through him: something cannot be had from nothing. At first sight it would appear that there was no loss here; a simple transfer of the shoes makes society neither richer nor poorer. But the profit, the true advantage of the whole of society,<sup>1</sup> comes from the good administration of every transaction in detail, every bargain in the market. A bad commercial exchange, or a bad process of manufacture, wherever it may occur, makes you and me poorer. It is here, and not in the dogma of "unproductive consumption," that society economically gains or loses. It is this which makes the function of the capitalizer so important. Every exchange and every process of production is transmuted through him; he is the crucible, the retort, in which old forces are released and may be destroyed, new forces are created and may be misapplied.

Our reformers are mistaken when they imagine that it is the possession of capital about which society is anxious. It is the movement of it, the transmutation of capital and labor, the dynamic power of society rendered into money, which

<sup>1</sup> See *per contra* Marx's "Theory of Profit," note, p. 245, *infra*.

vexes the mind of man. This constant, restless renewal of material substance through individual effort, the uncertainty, the immense chance of daily life even in the narrowest lives, while it distresses also fascinates mankind. All capital, all labor,—and, greater than all, that fine social organization, the sum of life either for capitalist or laborer,—are staked every day on myriads of subtle operations which involve the material substance of capital, the instant effort of labor and the social co-operation of all. The immense majority of these operations are of small amount, and chiefly affect individuals and families; but all these operations, small or great, are linked in the great social movements and impulses which modern trade, commerce, and manufacture embody. The ownership of capital interests us not so much in essence, as in the manner in which it shall be used and improved. In a large sense, great monopolies cannot forward themselves without advancing the larger interests of society.

Society cannot deal with these forces; it works through individual persons. A field of wheat cannot put its increase into the whole mass of its crop. It puts the increase in kind; this new and valuable product it puts into individual grains like the seed from which it sprang. Otherwise it may grow tall stalks, but will produce no valuable organism, and thus will lose its vital and reproductive character. The fecundating process of capitalizing is the same. Capital is matter, like earth, silex, and potash; it cannot form into the seeds of new capital, which is an organized growth, without the social brain of the capitalizer. The idea of the organism went out from his brain; the accomplished fruit must return to him,—just as the product of the wheat-field returns to the seed-

grains which gave it life. The State may own the mass, — it cannot penetrate it and infuse it with individual energy. Political organism is not fine enough, cannot reach far enough, to supply the power of individual effort to society.

The effective social group<sup>1</sup> embodies accumulated substance or capital, — the one who would or must labor, and the dynamic force of one who can bring new and increased social life out of this conjunction. It must be elastic, and the changes it brings about are often startling. The capitalist of to-day becomes the laborer of to-morrow; the present laborer may be the next discoverer or inventor, who shall become the greatest of capitalizers and overturn the habits of whole communities.

The social group tends to consolidate, to coalesce, and to make a closer and stronger union between its members. The outgrowth of the individual, to which I have alluded, the freer movement of the humblest members of modern society, has required a more elastic movement in the group. This has engendered in the group a repelling force, an outward current, only second in power to the centralizing attraction which draws the individ-

<sup>1</sup> These social needs, these centripetal impulses, very early precipitated individuals into communities and concentrated the forming processes of civilization into groups. The constant effort of man in all time has been to make the happiest groups. An Esquimaux family is at this day an industrial group well organized and well disciplined. Saltaire in Yorkshire, with its thousands of operatives, millions of capital, shops, churches, schools, and parks, is no other. Should you change the form of the organization, and place Sir Titus Salt or his descendants in London, the spinning factory in one town, the weaving factory in another, yet the principle would be the same. Manchester, Liverpool, London, make together one group or hierarchy of groups, whose office is to minister not to England alone, but to the ever increasing wants of the whole world.

uals together socially.<sup>1</sup> In order to keep the members whole, as it were, to prevent them from becoming mere parts and factors in a machine, they are always tending outward. The group, therefore, is always disintegrating, or tending to disintegrate, and form around new centres of healthful activity. This secondary process in grouping has evolved with such force that superficial observers have often thought it to be the mainspring of social life. The necessary repelling force in the individual, becoming for the moment the great motor of civilization, seemed to these philosophers to overcome all the powers which society had been gathering since history began. But these philosophers forgot that the final force is a centralizing one; the individual leaves the group by his own inherent force, but only that he may return to it or to another group. The constant desire of the individual in all ages has been to better himself; but he has never attained this desire without bettering others. His individual right to exist and subsist has not increased or diminished by his raising himself in the social scale. He has, by bettering himself, only gained a larger social opportunity, and incurred a corresponding obligation.

Just here the dogma of equality, so dear to humanity, Social Equality. has been distorted and developed toward the destruction of good social institutions. Equality is not the right of each individual as he is, with his social accretions, to balance any other individual

<sup>1</sup> This principle shows itself clearly in the decay of the Serbian family communities. These were ideal associations according to the socialist's dream, yet they have gone out. See Laveleye, "De la Propriété," p. 237.

as he is. Equality is not the weighing of John Doe against Richard Roe; it is the right of equalizing the social power of each. Now the social power of John may be thrice that of Richard; and he has attained it, or ought to have attained it, by rendering more service to society. It matters not whether he attained it by accident, by labor, or by heredity; for social law, like political law, deals with what is, and not with what ought to be. The only lawful means by which Richard can equalize himself with John is by rendering a still larger service socially, and thus equalize him in social power. No man has ever essentially bettered himself without going through this process. It is the social tendency to equalize, which never descends into a mere physical balance; it is the social momentum which adheres to the individual in his movement, and not the mere dead-weight of land, gold, or armies.

This is the secondary grouping process, and the more highly developed communities display it in greatest power. It is an essential function of any vital group. Society will tolerate no torpid members, no sluggish groups, just as Nature knows no death, no absolute rest. The group is not sooner formed than it must renew itself; and whichever individual it promotes or equalizes, it gives him a new social force. It may dispense with either John or Richard when he has ceased to be useful. It does not take away from John and give to Richard: it may increase John while equalizing Richard, but always out of its own abounding stores of social vigor, out of which shall come new and richer civilizations.

Thus the group is not a mere form of aggregation, but a principle of growth reaching into every form of

society which has established itself on earth. Whenever this principle has lost its concentrating power, when the mutual attraction and repulsion between the particles has changed direction, and the revolving units have spread out into a mass, then social decay has begun. When the group, losing its centre in the social whole, has flattened down into a caste or class, then society has lost the power which should come from the grouping forces, or the union of individuals with differing natures in a common centre.

Social groups of one kind or another have supported every State. The separation of political, religious, and social functions which characterizes modern civilized nations, has been slowly and very gradually accomplished. The orderly genius of the Romans at last built up an organic State, and every generation owes them a heavy debt of gratitude. The Greeks developed the free city, the mainspring of social life and culture; but Rôme balanced the functions of state, church, and family, and worked out a good government. The idea of the free individual did not obtain in their institutions; the head of the family and the full citizen was a part of the State: but the simple man whether enslaved or free was a part of some minor institution through which he enjoyed partial political privilege. The Roman world was one whole, in which the whole did not exist for the many; the many existed for the whole. Meanwhile the Germanic tribes were developing the individual freeholder out of the clan, and the mark into a constituent part of the State,—a necessary unit in every assembly, which should affect the fortunes of the whole community. It was not until the American Republic was founded that these two currents met

and formed one nation, one government. The fathers made that grand generalization, that "all men are born free and equal." They made it, not as untutored savages met to divide the spoils of a new land, or to live out a rude existence ; they made it fully informed in the spirit of all government which had gone before,—Greek, Roman, German, English ; and they laid these obligations of government on a people born out of the free and bold Germanic stock, educated in the sturdy independence of the Hebrew tribes. Contrariwise, about a century before, Louis XIV., a Cæsar without a senate, an emperor whose empire was in himself, had said, "I am the State." It was inevitable that the State idea, the organic force of the nation working through the structure we call feudalism (a correlated organism of individuals), should develop into a form of government as unnatural as this proved to be. It mattered not whether this glittering paradox was wielded by a powerful and ambitious ruler like its author, or a weak and well-disposed one like Louis XVI. : it was still absolute power ; and it exhausted the nation first, then brought disaster and revolution.

I am not claiming that the Americans have the only form of the true State. I only mean to say that this republic has wrought out this definite result : it has freely granted its citizenship, not only to all the individuals of the people who formed it, but has extended this right to nationalities and races then considered beyond the pale of political rights. It has demanded in return the union of the many in the whole ; not that the whole should oppress the many, but that a thorough unity should be established. The individual, local self-government—State rights—have yielded to the majesty of the Union,

and to this only. The imperial will of the State has united in itself the wishes of the many, through representation, we may say, of all who are included in its domain. This is an immense political achievement, and has produced corresponding social results. The scream of the American eagle is often a harsh sound, but nevertheless it is noble; it is born in numerous throats and voices, the powerful emotion of all the members of a mighty people.

All States include within themselves social groups of which individuals are the pivots and fulcrums. What we call freedom is the most social, the most civilized result of all the living among all the peoples both a social and a political Being. who have gone before. The savage is the most unfree man in the world, for he is entangled and completely wrapped in social despotism. The member of the tribe, the henchman of the clan, the subordinate member of the Roman family or clientage, had not the free activity essential to a modern citizen under any form of government. The genius of the modern State economizes its powers and limits itself to a few functions. It has been withdrawing gradually from the religious and social life of its citizens, that it might the better administer its purely political duties. Schuyler says that in Turkestan, under the old Oriental khanates, the crops were sometimes ruined when ready for harvest because the cultivator could not get the tax assessment fixed in time to save them. It would not pay to gather them, because the government might exact nearly all. Here an agricultural—or, as I would term it, a social—function of the people is hopelessly damaged by the bad political machinery of the State,—if we can by courtesy call a half-civilized government a State. The State now tends constantly to lighten its political

harness, and make it touch the persons of its subjects at as few points as possible. One of the causes why protective tariffs hold their ground so obstinately is that they tax things, and save many persons from direct obligations which might be less costly if applied directly.

For this reason the State fosters many associations which may work out the social life of the people, while they do not interfere with the imperial political supremacy of the State. All statesmen have recognized the helpless nature of the individual when left to himself: still less have they desired that he should be left on their hands. The individual, the independent self-willing citizen, has been evolving gradually from lord and vassal, from municipality and guild, from laborer and serf, even from the slave. Yet the State has not assumed immediate direction of these varied characters, excepting to work out its own political ends. It has kept alive the embers of the old social fires, and assimilated the new life of the people to the old institutions in so far as it found this possible.<sup>1</sup>

Castes have probably served a useful purpose at some periods of history. But modern society has made grievous mistakes when it has crystalized an aristocracy into a caste.

Caste kills  
an Aristocracy.

The modern aristocracies were not formed as castes, though they have become partial castes or distinct classes. They were groups when the feudal principle controlled human affairs. The baron or count did not consider himself a mere fellow of his peers, all together making common cause against the other members or classes of society. He was the centre of a barony or county, hold-

<sup>1</sup> See social structure of City in our last chapter, "Society, New and Old."

ing all the powers contained in gentlemen, freeholders and serfs beneath him ; and he reluctantly submitted this concentrated power of the group to the sovereign above. It was when the nobles ceased to regard their social privilege as a social duty, and made their class into an independent function of the State, that society began to lose the solidifying power of the feudal groups.

I have sketched the analysis of the social group, into which the life of modern societies is cast, or toward which it is tending. Other systems have prevailed, and in part still exist ; good arguments can be made individual for their continued and permanent existence. Nevertheless, any intelligent observer force except Social perceives that the changes of this century, Force. whether they be political, social, or industrial and fiscal, carry us toward the kind of social organization which I have tried to set forth. One institution after another has gone down or decayed, and given place to this superior organizing force. Slavery, patriarchal clientage, vassalage, guild-franchise, each was an important element in the social structure of its time, and served to link together capital and labor. Civilization has abandoned these rude and imperfect social machines, and has brought the individual man and woman into freer and more independent activity with every forward step it has made. The inert *status* has given place to the living contract. Both evolution and revolution have tended to put the individual into his own control, to free him as far as possible from the fetters of custom and necessity, and to make him the master of his own destiny. The individual will has been freely developed, often at the expense of good institutions. It matters not whether we like this essential principle : some of

us who do like it would limit it, perhaps ; but it moves on with irresistible force, regardless of pope, emperor, aristocracy, or other prescriptive power.

The fourth institution of modern life, the Church, needs no especial comment in this connection. The separation of Church and State moves forward so rapidly, even in Catholic countries, that the religious functions of the individual man can be carried on without necessarily interfering with his political or economic functions. Of course the Church always has large social functions, but they need not be considered in our discussion. The Church in a scientific social analysis would not as a factor change the relations I have stated. It is true that the Roman church still claims absolute and exclusive control over the individual in every social relation or tendency ; but it is not essential to our thought to discuss this pretension of that particular branch of the Christian church.

The social law of labor is not a mere economic force ; it is psychologic, because it is historic. It makes a succession through the three factors I have named, carrying with it the social life which it has inherited into a new social life which ascends to the future. I have tried to show by a few glimpses into the life of the past that the individual man never *begins*, as it were. In the earliest trustworthy records we have, we find man looking backward as well as forward, bringing the other world into this world, sharing his daily life with those gone before, tiding over this span of existence into the seas of infinity, hither and beyond, before and after this me, this individual unit, which yearned and still yearns

Church exists through Society, not above it.

The Social law is an old Law.

for fellowship with the many. This social law has been constantly at work. The units circled into groups of one and another kind, building up each other through social contact. Leaders were always needed ; aristocracies of every kind were developed. Whenever the best ceased to rule the many in the interest of the whole, the aristocracy was broken on the wheel of revolution, or it sunk into helpless decay.

This same social law now takes on new forms growing out of the recent industrial life, which is filling the whole world with new powers. But the law is unchanged, and will work forward toward its own objects, whatever may be the will of the masses or of the individuals through whom it puts forth its powers. My argument is of necessity more or less desultory, for it is like a bridge of pontoons which must be built and rebuilt with every forward movement. Each pontoon is an individual in the beginning ; but it enlarges into society in the centre, and is an individual again in the end. That is the forming principle of modern life, to raise up individuals with larger and larger powers, but fettered by social tendencies, all finally uniting in the bosom of the State. But before stating our whole view of this subject we must consider certain new theories of the State, — that possible new order of society which is hovering in the social and civil atmosphere, and which many thinkers believe is about to descend and abide among us.

Various observations and theories of the actual facts of life enter into what we call Socialism, or the communistic form of Social philosophy ; they all aim at one end, and the views of life which they embody are all seen through this one perspective. The idea and the aim of these theorists is to

The unsocial individualism of Communism.

bring the individual member of society into immediate and close contact with the resultant forces and the accumulated results of that society. Not only into contact with social wealth and property, but into its possession, must the individual come in order that every one may have his own. That labor produces all things is not a mere dogma affecting the economic distribution of a day's wages,— it is a social and political principle<sup>1</sup> far-reaching in its powers, and it affects every institution we have sketched.

I do not wish to prejudice the argument, but the reader will find in the actual history of the International<sup>2</sup> the accomplished facts which this principle has produced. The instituted life of society will not suffice for these sudden and imperative forces, which some well-meaning persons would push into instant and effective action. The society which has grown out of the past,— that which we have described as resting on State, Church, Family, Individual,— must give place to a State resting on the individual alone. Religion, property, heredity, must be abolished, in order that the individual person may articulate immediately with the joints of the body politic, may sympathize instantly with the nerve currents which move the State.

Nihilism is a dark word, but it is closely allied to Socialism. I do not mean to denounce, but to explain. There is so much that is in the present order, that the socialistic order of the future must begin in that which is not. Equalizing begins in negation. The new tree of life is not to be propagated from scions of the old stock,— a clear field must first be had; then the good God, or no God, will lift a new race into higher social life.

<sup>1</sup> See *infra*, p. 228.

<sup>2</sup> See *infra*, p. 225.

Do not imagine, reader, that this is a mere matter of plunder and robbery, a mere lust for the dollar in your pocket or mine. Many pure men and women,—pure only in their devotion to this idea,—have sacrificed every possible interest to this universality of the individual. It is a love stronger than religion, a patriotism deeper than the soil and wider than any country.

We must not despise this soul-compelling idea, this misdirected power. It may not be good or useful in its present manifestation, but it issues from the better part of humanity and cannot be controlled by brute force: it will yield to the greater power of the mind, to reason alone. There is only one way in which this idea can be met, only one force which will subdue it to the good of mankind. Whether the animal came from an egg or the first egg came from an animal, whether man came before or after the beast, is of little moment in any present estimate of man's nature. So, whether society came after the individual, or individual man and woman founded society, can be of little consequence in laying down social principles. This much is certain,—they each exist for the other. It is only by drawing out all the powers of society, by putting forth all the finest organic forces of the old institution, that this new and tremendous modern creature, the individual of Socialism, can be restrained and utilized. It may become a monster, it may develop into a being trained to the best social ends, according as society falls below or rises equal to the occasion which this new creation puts before it. I say *creature*, not accidentally or without thought. It is an animal full of passion; it may—and if civilization is to continue it must—become an organic being subject to law. The same evolution which has borne the in-

dividual man into political order, into the representative responsibility of the citizen, can bring the modern industrial individual into social dependence as well as into social rights, if society is large enough to put it forth.

We must look into the past for the promise of the future. Coming principles show forth in the plan of what has been. If we appear to be going far off, be sure we shall come nearer to the truth thereby. We can discover certain social institutions either in germ or developed or half developed in the records of the past, which are constantly being brought to light by scholars in the philosophy of history.

First, we have the personage, the man of mark, with property of his own, appearing in all rude societies; he was a pivot on which both Society and the State rested.

The Person, though a social agent and an important link in social succession, was nevertheless fleeting, and even the heredity of aristocratic privilege could not preserve all his functions. The Corporation, a permanent succession, including individuals while it passed through them, came into being, and becomes one of the most interesting as well as one of the most powerful institutions of modern life.

The Guild took on the religious, social, and industrial features of corporate life, while it generally relinquished the larger political tendencies to the rising municipality, the sphere of the growing citizen. It developed a social life of its own, not large enough to justify its continuance when a broader, freer State put forth municipal authority based on the representation of individual freemen.

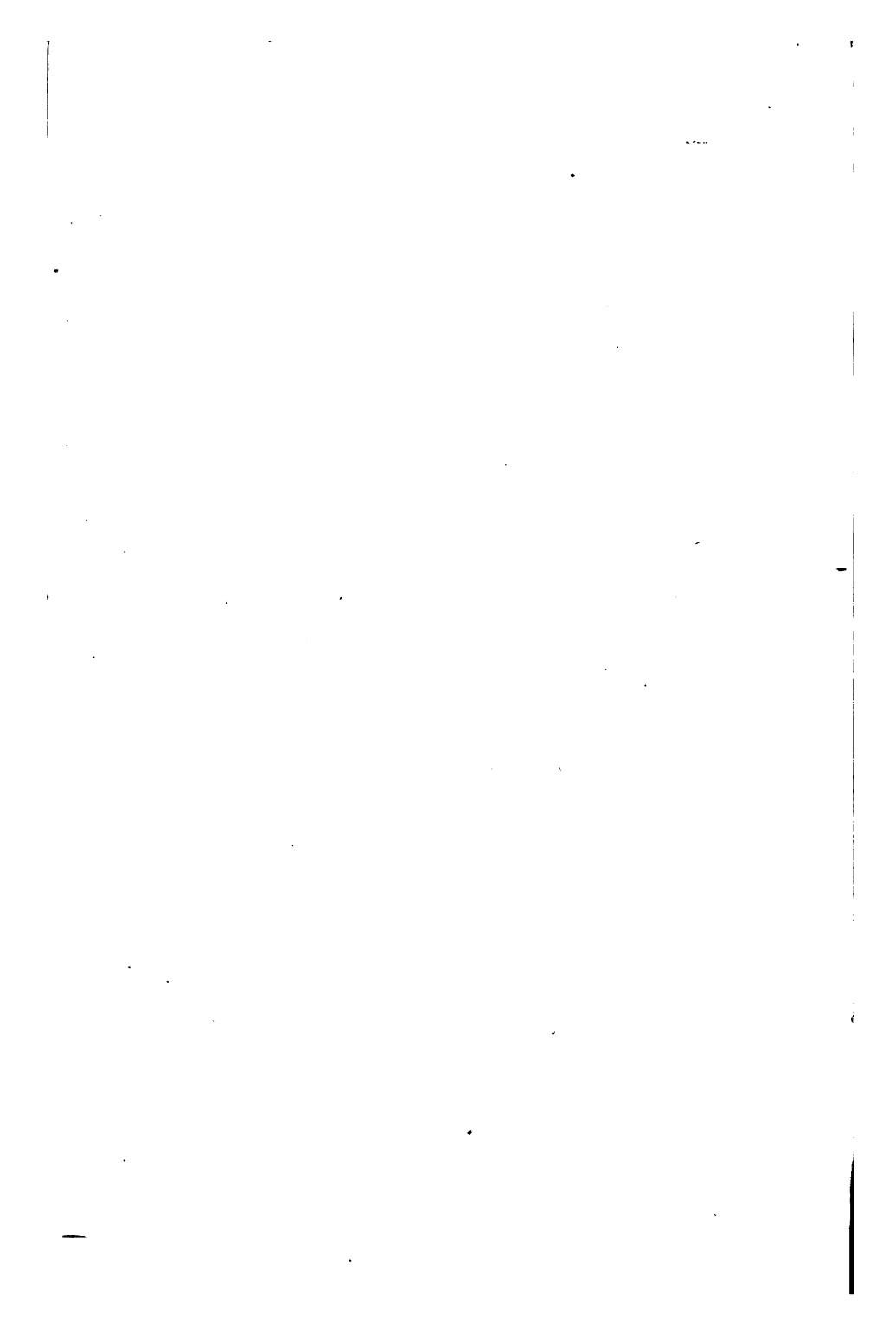
Purpose  
and Design  
of the chap-  
ters follow-

Labor Associations or Trade Unions on the one side Employers' Associations on the other, through the powers and the necessities of industrial organization, have developed a formidable negative principle, which plays a large part both in the progress and in the hindrance of modern society. In short, they are social and still more anti-social institutions.

Capital, the substance and the accumulated results of civilization, is the property of society deposited in individual hands. This individual ownership is the result of the social law which I have stated. The operation of this law is so minute and peculiar, that its main proceedings must always be through individual minds and hands. Great corporations, whether municipal or industrial, attract the eye by their more dramatic display ; but society must always exist finally for the benefit of its individual members, and they must be the trustees and holders of its material possessions.

Society, both the old which exists in our structure and the new which breathes a later and larger life through that structure, conform to one and the same law. The organs of the State include all the political, religious, and social tissues consolidated out of the life of past time. These functions of the State may be latent powers, but they always endure. No association, whether it be of laborers or capitalists, of nobles or serfs, of priests or soldiers, ever exists unto itself. Its right of being is in its social ends : if it help society, it will help its own members ; if it fail to be a social agent, it will finally damage or destroy its own individual members.

**PERSONS AND PROPERTY.**



## I.

### PERSONS AND PROPERTY.

WEALTH soon involves the idea of property. It is probable that language is here inverted, and that the principle of ownership which we consolidate into property was not at first the exclusive right of one, but the joint possession of many. Sir Henry Maine concludes "that joint-ownership, and not separate ownership, is the really archaic institution."<sup>1</sup> It is archaic and not natural to speak of common or joint property, for the essence of this institution is ownership, — the owning by one. After the principle of property beyond mere personal implements was developed, then the possession and ownership gradually passed to one party, and finally inheritance transmitted it to one or more heirs. This is one of the many illustrations of a conception of the individual growing out of family and tribal relations.

It is now believed that the great Aryan race, from which we derive the germs of our civilization, in the period which just antedates history was in a state of development nearly corresponding to that of the North American Indians. In that view the institutions of the Iroquois, who were passing from tribes into a nascent nation, are important. The custom of inheritance among these people indicates the joint nature of property, bearing in mind that the personal implements, "one's own," were buried with the owner.

<sup>1</sup> *Ancient Law*, p. 251.

"Theoretically, the Iroquois were under the first rule (that Early form is, that property should be distributed among the gentiles of the deceased owner); but, practically, the effects of a deceased person were appropriated by his nearest relations within the gens. In the case of a male, his own brothers and sisters and maternal uncles divided his effects among themselves. This practical limitation of the inheritance to the nearest gentile kin discloses the germ of agnatic inheritance. In the case of a female, her property was inherited by her children and sisters, to the exclusion of her brothers. In every case the property remained in the gens. The children of the deceased males took nothing from their father, because they belonged to a different gens. It was for the same reason that the husband took nothing from the wife, or the wife from the husband. These mutual rights of inheritance strengthened the autonomy of the gens."<sup>1</sup>

The gens<sup>2</sup> was a clan, a subdivision of the tribe. It included all who traced descent to a common *male* ancestor, and finally included others by adoption and by "fiction." The Senecas, one of the Iroquois tribes, had eight gentes, or clans; and the Oneidas, another tribe, had three. The Iroquois "manufactured nets, twine, and rope from filaments of bark; wove belts and burden straps with warp and woof from the same materials; they manufactured earthen vessels and pipes from clay mixed with silicious materials and hardened by fire, some of which were ornamented with rude medallions; they cultivated maize and tobacco in garden beds, and made

<sup>1</sup> Morgan: Ancient Society, p. 76.

<sup>2</sup> Maine differs from Morgan, McLennan, and other authorities, and makes the family precede clan and tribal organization. It is a difference in terms. There must have been some organism equivalent to a clan for long generations before the monogamous family was even conceived of.

unleavened bread from pounded maize ; they tanned skins into leather, with which they manufactured kilts, leggins, and moccasins ; used flint, stone, and bone implements, wore skin garments, and were expert hunters and fishermen ; they constructed long joint-tenement houses large enough to accommodate five, ten, and twenty families, and each household practised communism in living.”<sup>1</sup>

Here we see a rude society with property mixed, partly individual and partly common. The joint-tenement and the plots of ground must have been common among the clan ; the semi-personal effects passed by inheritance to those akin by blood. The clan and tribe are the basis of modern political institutions, while kinship is the basis of the modern family.

Russia and the Slavic regions bring the agricultural communities, or village communities, over from the Middle Ages. India and China and especially Java employ them to-day. They have been in use in former times among the Germans, Saxons, Scandinavians, and in the south of Europe. Peru and Mexico also had them. It has been considered that this joint form of property was universal in the middle stages of civilization : it is certain that it pertains to a rudimentary form of civilization.

M. Laveleye, in his work on Property and its primitive forms, does not go back to barbaric peoples, but he has made an exhaustive study of the institution among civilized and semi-civilized peoples. In his concluding chapter he enumerates, following the jurists and economists, five theories on the foundation of property :—

<sup>1</sup> Morgan : Ancient Society, p. 70. See also Parkman : Jesuits in North America.

1. Occupation,—after the Roman and other juris-Laveleye's consults.

statement. 2. Labor,—after the economists, and especially Adam Smith.

3. Contract,—“pour expliquer comment les hommes étaient sortis de la communauté primitive, on a dit que c’était par suite d’une convention, et ainsi la propriété serait née du contrat.”

4. Creation by the law,—after Bossuet, Montesquieu, Mirabeau, Bentham, Laboulaye, etc.

5. Natural right,—“un droit naturel”<sup>1</sup> M. Laveleye adopts the last theory, and quotes with strong approbation an explanation by Prof. Ahrens of Leipsic.

I cannot perceive that M. Laveleye escapes in this last theory from the objections which he has himself raised against the fourth. “The law creates property, they say; but what shall be that law, and what shall it decide?” Who shall administer the natural right which we find, not in a state of Nature, whatever that may be, but surrounded by all the appointments of civilization?

M. Laboulaye says that “the right of property is not natural, but social,”—which is plainly correct; and if the law is construed to be not only the authority of the State but a historic sequence, the manifestation of the order and source of authority, his ground and theory would be right. But that carries statute law beyond its true bearing: that would be the ideal law, and not the actual under which we live.

The right of property must vest in all the theories which M. Laveleye cites. They embody the historic sequence which we can see emerging from the Iroquois

<sup>1</sup> De la Propriété et de ses Formes Primitives, pp. 381–390.

settlement and from like communities existing in other parts of the world to-day. Occupancy, Labor, social Agreement, Possession under the statute written or unwritten,— all dwelt together in the joint-tenements of the Mohawks: they still dwell together in the Hindu village-community. These rights have passed from the original aggregation of people, under whatever form it existed, into the clan, into the household, or a community of like nature; then they have passed to the family, and lastly to the individual. The individual holder of property,— that is, one's own,— holds it in trust for all the rights which have gone before, and which created it. This is not a mere social contract, the principle which has confused the minds of so many, including Rousseau and Adam Smith. It is a social genesis. Therefore I say language is inverted, and gives us only the last step in the process of civilization. The property that I own, I have through the forbearance and assistance of generations of hunters, farmers, laborers, merchants, warriors, and statesmen.

The Roman law is a rich crust of fossils solidified from experience; its terms embody the customs by which men developed private property and affixed to individual possession a social sanction. Mancipation was one of its most important processes,— the form by which property was first taken in hand.

“The *Res Mancipi* of old Roman law were land (in historical times land on Italian soil), slaves, and beasts of burden, such as horses and oxen. Such commodities were at first, I imagine, called emphatically *Roman Terms*. Things or Property, and the mode of conveyance by which they were transferred was called a *Mancipium*, or Mancipation; but it was not probably till much later that they re-

Right not  
in one, but  
in all the  
Theories  
together.

ceived the distinctive appellation of *Res Mancipi*, — ‘things which require a Mancipation.’”<sup>1</sup>

Mancipation finally passed into “Delivery,” and property was legally delivered without the solemn ceremonies of the early form. Long ages must have passed while men were planting ground for joint families, and weaving bark — or even weaving wool — into warp and woof, before the civilized institution of mancipation could establish itself. When the labor of slaves had subdued the earth, and beasts of burden had been used to till the fields, then property passed into an organized form which could be taken in hand. It will be observed that land is here classed with the movable power which made it valuable to the proprietor. Slaves and cattle were a part of the organization which enabled the early agriculturists to give a convertible value to land.

“While, however, the list of *Res Mancipi* was irrevocably closed, that of the *Res Nec Mancipi* admitted of indefinite expansion; and hence every fresh conquest of man over material nature added an item to the latter, or effected an improvement in those already recognized. . . . The history of Roman Property-law is the history of the assimilation of *Res Mancipi* to *Res Nec Mancipi*. The history of Property on the European Continent is the history of the subversion of the feudalized law of land by the Romanized law of movables; and though the history of ownership in England is not nearly completed, it is visibly the law of personality which threatens to absorb and annihilate the law of realty.”<sup>2</sup>

Thus we see property becoming gradually more social in character. Things had more value because they became more personal, and passed from hand to hand in

<sup>1</sup> Maine: *Ancient Law*, p. 269.

<sup>2</sup> *Ibid.* p. 265.

the intercourse of men with each other. This was the process of capitalizing in its infancy. Men began to discover that more vital movement, more life, passed into things, the more valuable they became as property. The words *capital*, *chattel*, *cattle*, are near allied in their derivation, though their signification has widened out and taken different functions in the advance of civilization. *Pecunia*, the ancient money, certainly originated in cattle. In order that property should become wealth, it was necessary that it should pass and repass from the owner to his fellows : it must enter into the common weal. Things were of little value without use, and this larger use could come only with settled social life.

Let us glance from the movement of property to the social organization, the grouping force in Roman society ; for there was no industrial life of the modern sort, and agriculture was not conducted by our methods. The Roman family was a classified group, beginning with the husband,— including first wife and children, then clients and dependents, and finally slaves. The father exercised the *patria potestas*, one of the most complex social institutions the world has ever known. He had the power of life and death over his sons as well as over his slaves ; he could absorb the property of his son without becoming responsible for his debts. Labor in early times was performed by slaves, and it was exercised under this minor social tyranny, which was the main group on which society rested. The patriarchal authority of the father stood between the laborer and the State. He administered social order, and there grew up a body of rules which gave to persons a certain *status*, as it was called. When the

family governments became too unwieldy for an increasing civilization, the *status* changed, and individuals came to act for themselves. The will of the individual man came to be recognized, and it was expressed in Contract.

"The power exercised by the ancestor was the same whether it was exercised over the family or the material property,—over flocks, herds, slaves, children, or wife. We cannot be absolutely certain of its old Roman name, but there is very strong reason for believing, from the number of expressions indicating shades of the notion of *power* into which the word *manus* enters, that the ancient general term was *manus*. But when Roman law has advanced a little, both the name and the idea have become specialized. Power is discriminated, both in word and conception, according to the object over which it is exerted. Exercised over material commodities or slaves, it has become *dominium*; over children, it is *potestas*; over free persons whose services have been made away to another by their own ancestor, it is *mancipium*; over a wife, it is still *manus*. The old word, it will be perceived, has not altogether fallen into desuetude, but is confined to one very special exercise of the authority it had formerly denoted. This example will enable us to comprehend the nature of the historical alliance between contracts and conveyances."<sup>1</sup>

Sir Henry Maine, with that sagacious intuition which unfolds custom from the wrappings of law, here indicates the development of person and convertible property together. The first wealth was necessarily personal,—game, skins, rude weapons, and such articles as the savage could make his own. Then the instinct of social dependence associated men together, until they dwelt in joint families,—as we saw in the Iroquois

<sup>1</sup> Maine: *Ancient Law*, p. 807.

confederacy, and as some tribes of Dyaks, and many other barbarous peoples live to-day.

Here the property could no longer be personal. His implements and ornaments, those articles which were exclusively one's own, were buried in the grave with the owner, who was presumed to have gone on into another social system, where he would need his personal effects, and even his horse and dog, to start anew. The joint property could not partake of the essence of its individual producers; it became wealth, something for the weal of many. This use of property on the one hand, and of political citizenship on the other, went on developing, until it worked out the highly civilized institution of the Roman *patria potestas*. I do not mean that we know that every civilization took this form; but enough is known to show that this was the general tendency of ancient civilization, and that it reached its maximum effort in Roman society. Roman history is filled with incidents showing the bearing of this power of a little king in social life. The story of Brutus, and above all that of Virginius,<sup>1</sup> reveals the pathetic nature of these waning domestic and social powers.

The family as it was then constituted could no longer contain the individual.<sup>2</sup> Social life, much more productive than the dragon teeth of Cadmus, was generating far too many men for the narrow shells into which generations of Aryan life had cast them. The seeds of divinity struggled in the hard shells of patriarchal servitude, and finally burst forth in the free winds, as the thistle sends its children over all the land. Even the

<sup>1</sup> Maine : Ancient Law, p. 163.

<sup>2</sup> Ozanan : La Civilisation au Cinquième Siècle, i. 208.

slave rose up in the image of God, erect in port and mien, before those hard political powers which in making civilized polity possible had sacrificed whole hecatombs of human lives. Maine terms it the "passage from Status to Contract."<sup>1</sup> This bridge was a costly piece of social architecture, and not altogether completed in the Roman period. Its stones were wrought out of the tribe and the horde, and cemented by the blood of dependents and conquered peoples. Its piers were laid in custom and shaped by law. Roman power and Roman integrity gave it the solid arch of civil order, while the Teutonic races kept in the individual grasp of freedom the product of all the builders out of all the times gone before.

Over this structure, whose stones had been ground under the social friction of the Aryan centuries, stands on moved Persons, bearing their property in their Contract. own hands, in the *manus* won by fierce and bloody toil. Contract is the mystic social symbol which embodies the history of this long and wonderful development. We cannot study the growth of this ark of civilization too carefully, nor guard its integrity too jealously.

We seldom remember that these mile-stones of civilization are written all over with the symbols of human progress. These technical forms of the law and the minute language of legal instruments were never invented,— they grew out of the life which went before. Nay, the process was not even thus simple. The social adaptation of men, so to speak, their power of living together, their entertainment of each other's wants, produced certain customs. These ways of living were found

<sup>1</sup> Ancient Law, p. 165.

good according to the knowledge of the time,— became customary, in short. Then it was easier to formulate this custom in symbols, and to give that symbolic expression the social sanction of law, than it would have been for each generation to establish a new set of customs. Accordingly the symbols were established, and obtained the authority of traditional reverence.

"What, then, was involved in the *nexum* (the strong bond or chain)? A definition which has descended to us from one of the Latin antiquarians describes *nexum* as 'every transaction with the copper and the balance'; and these words have occasioned a good deal of perplexity. The copper and the balance are the well-known accompaniments of the Mancipation, the ancient solemnity described in a former chapter, by which (by an anomalous personage, the *libripens*, who brought with him a pair of scales to weigh the uncoined copper money of ancient Rome) the right of ownership in the highest form of Roman property was transferred from one person to another. Mancipation was a *conveyance*, and hence has arisen the difficulty; for the definition just cited appears to confound contracts and conveyances, which in the philosophy of jurisprudence are not simply kept apart, but are actually opposed to each other. . . .

"There seems to have been one solemn ceremonial at first for all solemn transactions, and its name at Rome appears to have been *nexum*. Precisely the same forms which were in use when a conveyance of property was effected, seem to have been employed in the making of a contract. But we have not very far to move onward before we come to a period at which the notion of a contract has disengaged itself from the notion of a conveyance. A double change has thus taken place. The transaction 'with the copper and the balance,' when intended to have for its office the transfer of property, is known by the new and special name of Mancipation. The ancient *nexum* still designates the same ceremony, but only

when it is employed for the special purpose of solemnizing a contract."<sup>1</sup>

Here we see the very process in which custom is crystallized into law. The *nexum*, the strong bond or chain, was brought over into Contract through a long course of social and legal crystallization. But to-day hundreds of thousands of dollars pass from man to man at the Stock Exchange with no stronger *nexum* than the pencil contract in a broker's note-book.

We forget that this law of social development is the only method history knows by which these things could be as in the order of Providence they are. Those who sigh for the past glories of the Golden Age linger over Adam their first man, the ideal of their pastoral dream. But Adam himself, with all the powers ever ascribed to him, could not do much for modern civilization without law and formulated justice. Law comes only through the process described.

Now appears the meaning of Person ; the mask, the character, which had been worn by the greater actors in the drama was enlarged in its scope and fitted to the common people who thronged through the life is a Social Character. Each man gained a character, a part in life ; and the chorus joined those chief players on the stage who had heretofore absorbed all the interest of the social spectators. A mere social atom, a member of a family in the Roman sense, could not become the individual, thinking being which Locke describes, until this character of the person had been slowly developed. Property went with the rights and position of the person ; not the aristocrat, the member of the

<sup>1</sup> Maine : Ancient Law, pp. 305-308.

Equestrian Order, but the common man, the citizen. Not mere tools and weapons, the attributes of the savage man, but all movable things, thus became personal property. These things carried the *manus*, the power of society, with them ; and Person and Property became fixed institutions in the historical civilization which we know.

This gradual growth of persons out of the rude but strong social network of early times appears more plainly in the institutions of feudalism. There has been much discussion of feudalism, and its exact origin is still a matter of debate ; it is sufficient to say that this institution, like all others, came not suddenly into being, but traces its beginning far back into early human experience. Professor Stubbs, following Waitz in Feudalism and the later German writers, rejects the old <sup>Illustrated</sup> *ism*. notion of Montesquieu and others, that the feudal State was based on "the connection of classes in subordination to one another, not the common and immediate subjection to a sovereign government." He carefully defines the system to be a social one, but which does not form a complete State according to the Roman or to our modern conception.

" It may be described as a complete organization of society through the medium of land tenure, in which, from the king down to the lowest landowner, all are bound together by obligation of service and defence, — the lord to protect his vassal, the vassal to do service to his lord ; the defence and service being based on and regulated by the nature and extent of the land held by the one or the other. In those States which have reached the territorial stage of development, the rights of defence and service are supplemented by the right of jurisdiction. The lord judges as well as defends his vassal ; the vassal does suit as well as service to his lord. In States

in which feudal government has reached its utmost growth, the political, financial, judicial, every branch of public administration is regulated by the same conditions. The central authority is a mere shadow of a name.”<sup>1</sup>

The distinction is nice, but strikes deep into the roots of history. If the tenure of land in feud had been a mere holding by the strong hand of the count, aided by the weaker but still able hands of the *Comitatus*,—the companions,—modern history would have been different. That system would have built up ranks and castes existing in themselves and in each other. The great States of France, England, and Germany exist because the feudal tenure was at bottom a rude social tenure, and finally worked out a social system, carrying the minute organism of feudality into the solid centripetal power of the Roman State.

Fortunately we can see parts of the process and pick up bits of the earlier forms of feudal society. Ireland was a little principality far away from the grinding, assimilating forces of the Roman empire. It kept the early Aryan customs in hard shells of local law, which the Roman *praetor* did not break up. Maine thinks the Roman influence indirectly touched the laws, but adds that it was very slight. The Brehon laws, the ancient Irish statutes, may be for the moment overrated, as late discoveries always take on too large proportions. But without doubt they contain much of the highest value to us, if we would interpret the very time in which we live, and comprehend the growth of our own families out of the great human race. These laws throw a strong light on the institutions of feudal society, whether they be of Celtic, Gallic, Gothic,

<sup>1</sup> Constitutional History of England, i. 251.

or Teutonic origin.<sup>1</sup> These laws and their collateral literature have been handled in a series of lectures by Professor O'Curry, "On the Manners and Customs of the Ancient Irish," and amply discussed in a careful and learned Introduction to the same work by Dr. Sullivan.

The upper class of ancient Irish consisted of "Flaths,"<sup>2</sup> or lords, and it was recruited from the ranks of the "Aires." Any free man might become first a "Bó-Aire," or cow-lord; then after possessing land for three generations his descendants might aspire to become Flaths, or hereditary lords.

The freeman who placed himself under the protection of a lord was called a "Céile," — a word which Dr. Sullivan considers equivalent in meaning to the Roman "client." There were two kinds of Céiles, — one the less dependent Saer, or free Céiles; the other having in the language of the laws "the second bond of servitude on them," the Daer, or base Céiles.<sup>3</sup>

There was an inferior class of "Daer, or base Fuidirs," or wanderers, who had no territorial rights. The "Saer, or free Fuidir," was a free man who could contract outside his own home or beyond his tribal relations. The base Fuidirs comprised the lower tier of

<sup>1</sup> Waitz holds that "Commendation" may be traced up to early Celtic usage.

<sup>2</sup> Sullivan : O'Curry's Irish, i., cix.

<sup>3</sup> "The act of becoming a Céile consisted in the man commanding himself to the *Flath*, who thereupon presented him with a gift called a *Taurcrech*, the amount of which depended upon the rank of the *Flath* who bestowed the gift, the recipient of it, and the extent of the services to be rendered. The gift or wages, for it was also called *Rath* (wages), generally if not always implied a benefice in land. The Céile in return was bound to make certain payments in kind, called in the case of the free Céiles *Bes Tigi*, or house tribute, and in the case of the base Céiles, *Biatad*" (that is, subsistence). — Sullivan's O'Curry's Irish, i., cx.

society, the great mass of "unfree," corresponding to the Gallic and Teutonic "serfs."

We can see here the origin of the strong antipathy which will not allow right-minded people to accept gifts. This is a definite result of civilization. The most ludicrous instances are constantly reported from Africa, where savage potentates ruling powerful peoples beg with unblushing persistence for any object of their desire. This is in the childish period. But the Aryan races have found through bitter experience<sup>1</sup> that he who accepts a gift without corresponding return pays dearly for the property. Sir Henry Maine<sup>2</sup> considers that the Irish custom of "giving stock" was the same process by which the Athenian, Roman, and Gaulish peoples were bonded to the wealthy *Equites*, or chiefs. Land was in these early times abundant; capital was scarce and of great value. Horned cattle were the chief instruments of exchange, the means by which the rude "capitalizing" of their simple life could be carried on. The great difficulty in the life of the simple freeman was to keep any movable property in hand. Hence the ox and the cow, which could draw out of the earth on the one hand and minister to the needs or to the migration of men on the other, became the chief articles of value,—money possibly, capital certainly, in the strictest economical sense.

All the machinery of fines and taxes under the Brehon laws was chiefly moved in cattle. "Sed"<sup>3</sup> was a certain quantity of live stock; how much it consisted of is

<sup>1</sup> "Even as late as the Norman conquest [of the Saxons] we find Geatfla  d, a lady, directing by her will the manumission of all those who had bent their heads in the evil days for food."—Kemble's *Saxons in England*, i. 196.

<sup>2</sup> Early Institutions, p. 167.

<sup>3</sup> Ibid. p. 149.

not exactly known. This term has descended to us in the frequent commercial expression, "Asset." Cattle. Assets. Capital. Every merchant knows how much the value of an "asset" is now enhanced by its better convertibility. If it is movable it is said to be "quick," and in event of change or disaster its corresponding value increases. We see from the word "Bó-Aire" how cattle helped the chief in his onward movement. He was raised into a noble and finally into a lord through this first wealth of cattle, which was afterward consolidated in land. Cattle-lifting was a favorite mode of acquisition from Homeric days to recent Scottish highland times, and it is not without its counterpart in some methods of the bourse and stock exchange to-day.

The Irish "Taurech," or gift, was the cement which bound the new group together. The tribal organization was giving way under the political pressure of the State and the economical pressure of land and cattle. Kinship or clanship was also rapidly modifying through the growth of the individual home, or the family as we understand it. The Irish "Fine,"<sup>1</sup> or clan, corresponded nearly to the Anglo-Saxon "Maegth," and the relationship was recognized to the seventeenth degree. Adoption extended this relationship, and still further complicated it. This political group of the tribe and the blood-group of the clan were moving through all this social development which I am trying to sketch. There is much trivial dispute over terms; it is not clear just where the clan left off and the tribe began, nor where the power of property was purely economical, and where it became social. The whole analysis of political, social, and

The "Taurech," or social Cement.

<sup>1</sup> Sullivan : O'Curry's Irish, i., clxiii.

moneyed power, which is so easy to us, is barely traceable in ancient society. We can hardly understand the slow and halting steps by which organization advanced through the power of the chief, ownership in land, beneficiary grants of land, movable wealth in cattle, and homestead rights of grazing, until the yeoman's home and the serf's enforced labor on the land were reached.

The principle is the same in all these institutions which history brings over to us: the "Taurcrech," gift, underran all these modifications of social order. The *céile*, or *ceorl*, needed not only movable property, cattle to till his soil, he must also have "protection." When he accepted the "gift," he "commended" himself to the lord, who must become responsible to the State not only for his military service, his personal dues to the State, but for his property dues, his fines, "honor-price," and *biatud*, or subsistence tribute. The lord must be not only strong in war-force but in peace-force, wealth,—a person who could sue and be sued. Only a property holder could be a compurgator, a surety, a witness (according to Palgrave, the equivalent of a modern juryman), or exercise any of the functions of a freeman. The complete person as I have described him, emerging from the Roman law, was not yet born into society. A personage must have property. The next equivalent to the protection of a lord was the support of a mutual partnership or guild.<sup>1</sup>

<sup>1</sup> "I have not been able to determine what amount of land a freeman below the rank of an *Aire* was entitled to the usufruct of. The *Oc-Aire* being entitled to the grazing of two *cumals*, or six cows, exclusive of the grass of the seventh cow left as tribute, the simple freeman was perhaps entitled to the grazing of one *cumal*, or three cows. In Wales it was five acres, which would be in the then state of agriculture about as much as in Ireland. A person holding this amount of land did not enjoy the full rights of citizenship; he could not be bail or witness; and unless he had among his own *Fine* or family an *Aire* who could

Mr. Freeman regards the act of representation whereby the people "will not exercise those rights in their own persons, but through persons commissioned to act in their behalf," as the great modern institution which distinguishes our States from the ancient governments. "It is the great political invention of Teutonic Europe, the one form of political life to which neither Thucydides, Aristotle, nor Polybius ever saw more than the faintest approach."<sup>1</sup>

legally represent him, he was obliged to seek the protection of some *Flath*, or form a guild or partnership with others in similar position with himself. Such a guild or partnership consisted of from four to eight or perhaps more freemen, who with the consent of the *Rig* (i. e. chief of *Tuath* or tribe) and his council appear to have been permitted to appropriate and fence off a portion of the common land equivalent to the sum of their individual rights. A partnership of this kind was regarded as a solemn act, and was entered into in the presence of three *Aires*, one of whom was generally a functionary called the *Aire Cosraing* (i. e. equivalent of modern sheriff), and with solemn formalities, pledges being given for the fulfilment of mutual engagements. The final establishment of the fences by which the enclosure of the common land was completed, was fully effected in the tenth year. Partnerships of this kind were, as I shall show in a subsequent section, the origin of the mediæval guilds; and the solemn formalities above alluded to may have been accompanied by religious ceremonies in Pagan times.

"The chief advantage of such a partnership was that the joint possession qualified one of them to be an *Aire*, and consequently to be eligible to act as pledge, witness, and representative generally on all legal and public occasions. As *Dire* or *Wergeld*, honor-price, etc., were in proportion to the rank of the person killed, wounded, or otherwise injured in person or property, such a partnership enabled the poorer freemen to maintain their privileges. In a subsequent section I shall endeavor to show the connection between this custom and frank-pledge and the representation of the commons. Free *Feuidirs* (i. e. wanderers) could also enter into such partnerships for the purpose of obtaining some of the privileges of *Ctiles*." — *Sullivan's O'Curry*, i., clvii.

Similar partnerships existed in Wales, Scotland, Holland, Belgium, Friesland, and Lombardy.

<sup>1</sup> Freeman : Federal Government, p. 67.

He might have added that this faculty of representation was the greatest social as well as political invention; for modern life, which subordinated military to political development, is beginning to pass from the political period into the social. The late rebellion and reconstruction of our Southern States illustrate this. A magnificent warlike struggle produced a meagre political result; and it amazed the honest Republican politicians that these political advantages given them by the war yielded such wretched social failures.

Whether Dr. Sullivan's ingenious hypothesis that we here find the very beginning of Teutonic political representation be true or not, we cannot overestimate the historic importance of these early partnerships Its great importance to appropriate the common land. It is the first authentic instance in which individuals uniting together for peaceful ends obtained political, social, and economical power, without sacrificing that essential individuality which has been the mainspring of modern civilization. The village community and clan community were quite different from these simple guilds. The power dwelling in the first went out from the community to the members. In these early Aryan partnerships the power went from the members, and, joining, produced an associated power which was to be a gain in developing civilization. We hardly comprehend the difficulties under which rude societies carried forward social privilege and associated or representative power. Maine<sup>1</sup> shows that the individual sense of freedom and legal right which we so properly esteem, is the greatest obstacle in the orderly and just administration of affairs in India to-day. The first effect of a better

<sup>1</sup> Village Communities, p. 73.

civilization has been to fill the common man with an eager desire for his own rights, while his appreciation of his corresponding social duties is of slow growth. This is the first effect; it is the inverse development by which peoples acquire personal and social education externally, without earning it by their own proper exertions.

To comprehend the full force of the *Aire* partnership, we must consider the institution of the honor-price, *wergeld*, etc. Our conception of crime, a something wounding the State,—that great ordered movement of society which I have termed a divine institution,—is one of the most complicated modern ideas. There were always conceptions of crimes against God,—sins;<sup>1</sup> and there were conceptions of crimes against one's neighbor,—torts, or wrongs. But the grand conception that he who wrongs his neighbor wrongs everybody, and through his offence against humanity wrongs God himself, has grown out of all the experience of the human race. The Church very reluctantly gave up the physical control of sins, and turned its ecclesiastical punishments away from delicts and crimes to the regulation of the individual conscience. In the matter of early private wrongs,—murder, adultery, seduction, and robbery,—the Church was helpless; it could modify their course, but could not prevent their occurrence, or the retaliatory punishment. What we term revenge was originally the strict sense of honor and justice growing out of kinship, the ties of blood, actual and assumed, existing long before such institutions as the guild-partnership could be conceived of. The blood of the murdered man, the wrongs of the orphan, cried aloud for

<sup>1</sup> Maine : Ancient Law, p. 360.

retribution. There was no policeman to arrest the wrong-doer; there was no court to hear the tale and to punish the wrong, in the interest of society and of God. The best man among the kindred must stand forth to punish this personal wrong; and he was a skulking cur who would not respond with all his force, and secure the only justice which the barbarians knew. The Hebrew Scripture reports many incidents showing the gradual outgrowth from this social system. But before history was written, mercy had begun to season justice. The curious institution, "sitting dharna," of the Hindus, is considered by Maine<sup>1</sup> as almost identical with the custom of the Brehon law "to fast upon him," when one had a claim against a man and would compel him to discharge it. The Hindu sits at his debtor's door and starves himself until he is paid. The Brehon law says, "He who does not give a pledge to fasting is an evader of all; he who disregards all things shall not be paid by God or man." The distinctive power of Christianity is foreshadowed in these heathen institutions. The great force of suffering, the cumulative justice which endurance brings upon wrong-doing, is foreshown by the patient Hindu sitting in old Asia, and the Irish Celt mildly fasting in the further corner of Europe at the same time.

All this has little to do with the *wergeld* of the Teutons, the *eric fine*, and honor-price of the Celts. An out-growth from Personality. Before ethical mercy was, before social justice prevailed, the prevention and the redress of crime was a matter of persons strictly, and issued forth in the right of private war and the blood-feud. The Teutonic and Celtic races, and without doubt

<sup>1</sup> Early Institutions, p. 39.

the Italians and Greeks in corresponding periods of development, had an elaborate system of fines and compensations which was gradually taking the place of private war and blood-revenge.<sup>1</sup>

This is perhaps the highest office ever performed by wealth and property in the promotion of human happiness. All the mechanical inventions by which man has multiplied his comforts, are merely applications of wealth to his wants,—generally to his material wants. No one of them, and hardly any number of them together, is equal to this single institution of civilization by which the person, through property, discharged social obligation without losing that sense of personal honor which is the spinal marrow of the civilized man.

The *wergeld* marks the division between the free and unfree orders of men. Slavery existed<sup>2</sup> in the Germanic as well as other races, from very early times.

<sup>1</sup> "The right of private warfare, technically called *feud*, was one which every Teutonic freeman considered inalienable, and which, coupled with the obligation of family, was directly derived from his original position as a freeman; it was the privilege which he possessed before he consented to enter into any political bond, the common term upon which all the freemen could meet in an equal form of polity. . . . The *wergeld* then, or life-price, was the basis upon which all peaceful settlement of feud was established. A sum paid either in kind or in money, where money existed, was placed upon the life of every free man, according to his rank in the State, his birth, or his office. A corresponding sum was settled for every wound that could be inflicted upon his person; for nearly every injury that could be done to his civil rights, his honor, or his domestic peace; and further fines were appointed according to the peculiar, adventitious circumstances that might appear to aggravate or extenuate the offence. From the operation of this principle no one was exempt, and the king as well as the peasant was protected by a *wergeld*, payable to his kinsmen and his people."—*Saxons in England* (Kemble), i. 276.

<sup>2</sup> Stubbs: Constitutional History, i. 78.

The simple theow, the chattel, must be accounted for in the *wergeld* due his master, just as the cattle were reckoned in an injury. But the slave himself had hardly any personal rights, and his condition was harder than it was under the Roman law, where he was recognized and entitled to a certain *status*. The ceorl and man keeps villain of early German and Frankish times Personality through was very like the Irish *céile*. The ceorl was a property. free man, but his condition tended constantly toward the serf or theow, unless he could secure some property in land.<sup>1</sup>

The landless or homeless or kinless man must have a lord ; the stranger must put himself under the protection of a householder. He who harbored a traveller became responsible for his acts after the third night ;<sup>2</sup> the stranger was then legally a member of his family. In all these institutions we see a minute social responsibility carefully parcelled out and laid upon responsible men, in order that the whole body of society might suffer the least harm from the acts of individuals. Tithing and frank-pledge, from which our present bail-bond descends, embodied this social idea. "Ten men are

<sup>1</sup> "The fully qualified freeman who has an estate of land may be of various degrees of wealth and dignity,— from the ceorl with a single hide to the thegn with five hides, a place in the king's hall, a bell-house and burh-geat seat; to the still more powerful man who has thriven to eorl-right, or who has his forty hides (the eorls were ancient nobility; the thegns were the later or king's nobles); to the ealdorman and the etheling. . . . But there is no impassable barrier between the classes ; the ceorl may become thegn-worthy, and the thegn eorl-worthy. And there are gradations in every class,— four ranks of the eorlcund and three of the laets ; three even of the household slaves. The great distinction however is that of wealth ; the landless ceorl is little better off than the slave, except that he may choose his own master."— *Constitutional History*, i. 80.

<sup>2</sup> Palgrave : Commonwealth, i. 20.

standing sureties for one another ; if one break the law, the other nine shall hold him to the right.”<sup>1</sup> They were not bail after the fact, as our compurgation requires, — they were a mutual association to hold each other up ; and if one should commit a crime, the others must make good the injury, or produce the criminal for punishment. Tithing, the ten-group, has been supposed to be the basis of the hundred-group, the original township of Saxon history. But this connection is not clearly proven. It was a mutual police association, and is considered by Professor Stubbs as a step in the process by which the personal organization passed into the territorial system.

The State had not that collective power and majesty which all these institutions, combined, now give to it. The State was not ever present to each citizen, who should thus become an integral part of this greater organism. The life-blood of society did not course out directly from the heart to the least member of the body politic. The fluid was transmuted into eorl’s blood of four kinds, serf’s blood of three kinds, and circulated through these subordinated members, carrying minute social organisms varying through every shade of color. It was not mere rank and caste : those distinctions define no better than if we should say a thigh bone is long and a skull is round. It was a social articulation in which every man, free, unfree, and half free, brought over some function of social experience from the men just gone before.

Mr. Palgrave,<sup>2</sup> whose sagacity divines the life our forefathers led, considers this mutual dependence to

<sup>1</sup> Stubbs: Constitutional History, i. 88.

<sup>2</sup> English Commonwealth, i. 193.

be the main root of Anglo-Saxon law. Lords and vassals were bound each to each, and the *vavasseur*, the vassal of the vassal, was interlocked in the chain which carried social and political movement through the feudalized body. Land, always the chief vehicle of property, was the basis on which this social evolution was poised ; and it partook of its character in the varied rights and duties involved in the tenure. We cannot follow them into detail, but there were two main features which we must study in the institution of folk-land and book-land.<sup>1</sup>

<sup>1</sup> "The original gift (that is, of land) comes from the Germanic community of which the receiver is a member ; the gift is of itself mainly of the character of usufruct, — the hold is ideal rather than actual ; except in his own homestead the freeman can but set his foot on the soil and say, 'This is mine this year, next year it will be another's, and that which is another's now will be mine then.' It is only by way of inference that we discover that there must have been larger and smaller properties, — the larger held by those who had to support a larger household, the magistrate with his *comitatus*, or the noble with his train of kinsmen. Without conjecturing how the change took place, we may safely assume that, although traces still remain of common land-tenure at the opening of Anglo-Saxon history, absolute ownership of land in severalty was established and becoming the rule. We may then regard the land as referable to two great divisions, — that which was held by individuals in full ownership, and that of which the ownership was in the State ; the intermediate case of lands held by local communities in common, and used in common by the owners of land as appurtenances to their several estates, may be for the moment put out of sight. The land held in full ownership might be either an 'ethel,' an inherited or otherwise acquired portion of original allotment, or an estate created by legal process out of the public land. Both these are included in the more common term 'alod,' but the former looks for its evidence in the pedigree of its owner or in the witness of the community, while the latter can produce the charter or book by which it is created, and is called 'bocland.' All the land that is not so accounted for is *folcland*, or public land ; it comprised the whole area that was not at the original allotment assigned to individuals or communities, and that was not subsequently divided into estates of book-land. The folk-land was the standing treasury of the country : no alienation of any part of it could

There is an interesting custom shown in the Irish laws which defines this homestead of the céile. There was an instrument, supposed to be like an iron sledge-hammer.<sup>1</sup> The freeman sat on his threshold and threw this sledge as far as he could : the strength of his arm thus limited the boundary of his homestead ; the land within the sweep of the missile was his own. The wealth of the community was the source whence the freeman drew his own property, and his own personal power exactly measured the amount which he could retain for himself out of this public store of wealth in land. The Irish sledge has gone out from our present uses, but the principle is in no wise different. The community, whether it be feudal or the highly mobile one of an industrial time, still acquires the wealth which is crystallized into many values besides land ; it still metes out to the citizen for his own possession just what his personal force can seize and maintain. The folk-land may be appropriated to the last acre ; but in the process new and larger social opportunity will be developed, other values created, until the hand of the free and brave man will reach as far as ever, though it may contain other property than the turf included by the flying sledge.

The homestead of the freeman was first detached from the joint tenement and arable ground of peoples like the Iroquois barbarians. Then the folk-land was improved in common, and every freeman had an interest there not ex-

be made without the consent of the national council ; but it might be allowed to individuals to hold portions of it subject to rents and other services to the State." — *Constitutional History*, i. 75.

<sup>1</sup> Sullivan : O'Curry's Irish, i., clvi.

actly defined as Professor Stubbs indicates. This "ideal hold" of the freeholder became gradually firmer, and consolidated into the severalty,— private property in land.

The *Aire*<sup>1</sup> partnership is one of the most interesting institutions in history, for it reveals an important step in the process by which person and property took form. The wild independence of the barbarian was enlarged into the social dependence of the person; the mass of land dominated by the patriarchal chief of a horde was crystallized into property. This property was not of the kind which could be carried in a convertible jewel, or worn in a gold chain,— a value ready for immediate use. It was a social institution with two legs, as it were ; one resting on the homestead and book-land, the other resting on the common and folk-land, which was constantly tending from the ideal toward the actual hold of the freeman. This institution was a social organism carefully worked out in its smallest features. Rights of grazing and pasturage, rotation of land between families, temporary, then permanent, right of fencing, and scores of agricultural and craft obligations still more minute were interlocked with the rights of the community and the powers of the feudal lord.

I have called the *Taurcrech* (gift) the cement which "Protection" the held the social structure together : I might nerve-current rather say, the "protection"<sup>2</sup> of the lord and of feudal society. the corresponding obligation of his vassal were a political nerve-current playing through the social organism. The *Aire* partnership involved not mere wealth, property, or capital: all these

<sup>1</sup> See *ante*, p. 69.

<sup>2</sup> Young : Anglo-Saxon Law, p. 142.

were embodied in the land. The partnership took four or more individual rights out of the folk-right, and twisted them into one separate and finally permanent possession: this was property firmly fixed by social tenure. Then the four freemen banded their powers together into one power, which obtained the force due to the *Aire* rank above them, through its representative character. The social prestige and power of a noble went with the mutual support of the partnership, which thus could resist oppression and enforce its privileges. The mask, the character of the Roman person, was fitted to the *Aire* representative.

At a later period we shall see growing out of the embers of the old Aryan hearth-fire, and out of the disjoined members of the old clans or *gentes*, the Roman *collegium*,<sup>1</sup> or corporation. This will become the civil instrument by which the polished citizens will bind a social organism together, just as in earlier times the *Aires* and the *Flaths* maintained a definite government by the tenure of land and of the privileges growing out of agriculture. But midway in this process there is a very interesting period, when the systems cross, partly coalesce, and partly destroy each other. We must remember that this order is not regulated by time, but by process of development. The highly complex Roman State had grafted its civilization upon the Celtic tribes of Gaul. These tribes had worked out the system we have been studying among the Irish Celts, to its highest maturity. This system then met the centralized force of the Roman State, and passed under a higher form of government.

<sup>1</sup> See p. 105.

According to Fustel de Coulanges,<sup>1</sup> the right of private property had been well established and defined in Gaul by the Romans of the empire. We must accept this statement as a true description of society at that time. But it is certain that after the central power of the Roman State was withdrawn, another social system intervened, and modified this tenure of property. From the seventh<sup>2</sup> to the twelfth century, the *Droits Féodaux*, — *le cens, la taille, les corvées, les banalités*, and all the minutely classified burdens of the feudal régime,— oppressed the French people until they were forced into different kinds of servitude. *Allod, alleu*, freehold, alike yielded to this powerful organizing force, which first broke the Roman empire and then built up the fragments into the European States of to-day, each greater than the original whole.

It would be dangerous to assert that the Teuton was a higher kind of barbarian than the Celt, but the facts remain. The German prevailed over the Romanized Gaul, and interfused his blood together with a part of his social system into the France of the Middle Ages.

<sup>1</sup> "Ce droit de propriété que l'empire romain léguait à l'Europe du moyen âge avait deux caractéristiques. En premier lieu, la terre possédée en propre était heréditaire de plein droit ; elle était transmissible par vente, par legs, par donation. En second lieu, elle n'était soumise à aucun domaine éminent ; elle payait l'impôt public, mais elle n'était sujette à aucune redevance d'un caractère privé ; elle ne devait ni foi ni service à personne." — *Institutions Politiques de l'ancienne France*, p. 518.

<sup>2</sup> After the year 605 there were no *public taxes* collected. The king received returns from the land and from serfs, like an individual proprietor. This system lasted into the fifteenth century. "Each lord, sovereign in his own domain, acted like a king ; he gave the law, rendered justice, raised taxes and armies." — *Tourmagne's Histoire du Servage*, p. 31.

The German baron evidently carried with him a feudal power, which was the strongest organizing force in the world at that time. It is the glory of France, that while she received and even submitted to this harsh exterior force, she still kept the germs of the Italian civilization through this dark period, and gave to Europe the first example of a well-ordered, balanced, modern State. The interplay of the Celtic, Teutonic, and Roman civilizations will, we believe, yield fascinating results to future historical studies.

Under the great changes which the Franks carried into Gaul, the country was reorganized. In the eighth century we can see springing up new institutions, partaking of the German and the Gallo-Roman characteristics. The Abbey of Saint-Germain-des-Prés was a typical organization of this period; and its records throw much light on the whole time.

"The register of Saint-Germain-des-Prés includes twenty-four seigniorial households (*manses*), where dwelt the intendants for 1,646 tributary households. These intendants were serfs, like those whom they supervised. When it was intended to occupy a region, or to organize husbandry there, the lord intrusted to a mayor or intendant — often with a hereditary title — the care of organizing the villages, of cultivating the lands, and of rendering justice. In proportion as the villages were organized, they would build churches served by priests, and each village would become a parish, to which they would appropriate the revenue of a farm or ecclesiastical household, which would comprise at least twelve *bonniers*<sup>1</sup> of land (twelve days' work of an ox), four serfs, without counting the revenue of the tithes."<sup>2</sup>

Social  
organiza-  
tion in  
Medieval  
France.

<sup>1</sup> This measure was from 1 to 3½ acres, according to locality.

<sup>2</sup> Tourmagne : *Histoire du Servage*, p. 78.

The relation of person and property was not simple in ancient times. In the Middle Ages it was even more shifting and uncertain. Certain classes had been established and each lived on a social tenure, which it maintained as it was able, and sought to extend into further prescriptive right. But between these classes were great masses who were hardly grouped at all: they were sometimes persons, sometimes property; and sometimes they partook of the nature of both. For example, Beaumanoir says that in the thirteenth century there were three classes of men,—nobles, freemen, and serfs.<sup>1</sup> These latter interest us most, and they comprise two different classes. One class, the serfs of the land,<sup>2</sup> is at the mercy of the noble, their lord, who has absolute power over them,—the power of Roman *potestas*; and they are sold with the land. The other class better illustrates our statement: they were more numerous, and they were bound to their lord by a fixed tax or rent; when

<sup>1</sup> "Far above all the classes of enfranchised were elevated the true freemen,—*ingenui*. They alone were members of the nation; they alone were called Franks. To them only belonged civil rights and the few political rights there were in that time. We would like to know their number relative to the inferior classes. They had not been very numerous under the empire; they were fewer yet under the Frankish kings. Several documents lead us to think that from the end of the sixth century they formed a kind of aristocracy in society. We see also in the chronicles, and even in the laws, that they were not enough to constitute the armies, and that it was necessary to fill up the ranks by the aid of the different classes of the enfranchised."—Coulanges' *Institutions Politiques de l'ancienne France*, p. 572.

<sup>2</sup> These *colons* were often the captives, and descendants of captives, who were distributed by the imperial government to proprietors of the soil in various provinces, and attached, not to their masters, but to the land. They became, not personal, but real property. Some were not prisoners but barbarians, who freely bound themselves to obtain a foothold in the imperial provinces. Coulanges: *Ins. Pol.* p. 385.

these dues were discharged, they had more personal privileges.

The name of these half-free people was very suggestive; they were called in France *mainmortables*. Says Ferrière : —

“ *Mainmorte* signifies men of servile condition, whose bodies are subject to their lord, who inherits them according to custom. They are called *gens de mainmorte*, because the Romans held them to be dead in respect of public and civil functions; or perhaps being unable to testify, they are reputed dead in this respect. *They live free, and die slaves.* There are two kinds of *mainmortables*, — those made so only by contact with the inheritance, who make no part of the estate, but become free or untaxed by renouncing the inheritance ; and the other kind, body serfs, who were enumerated as a part of the land.<sup>1</sup> Consequently they could become free and untaxed only through an enfranchisement made with the consent of the lord.”

There was a distinction more or less uncertain between the villain and the serf. Pierre de Fontaine says, in 1260 : “ If they say that everything of the villain’s belongs to his lord, it must be so (*c’est à y regarder*). If the villain’s effects did belong to his lord, there would be no difference between the serf and the villain. But, by virtue of our usages, there is no other judge than God between us and the villain.” A feudal legist of the time of Saint Louis lays down the rule, and then states that it is violated and abused in actual practice. “ According to him, the villain ought to have

<sup>1</sup> “ Serfs called by the Roman law and by our old French law *mortaillables*, *mainmortables*, and people of *mortemain*, made part of the landed estate. Therefore they could not free a serf without diminishing the fief and injuring the baron.” — *Isambert’s Anciennes Lois Françaises*, ii. 631.

more liberty than the serf; but, by an abuse, the one and the other submit to the same rule, to the same punishment.”<sup>1</sup>

The barons and bishops controlled the marriage of the French serfs absolutely, as late as the thirteenth century. In 1242 the Bishop of Paris consents to the union of one of his serfs with one belonging to the Abbey of Saint-Germain, only on condition that any children born of the marriage should be shared between him and the Abbey. Without this formal permission, the marriage would have had no legal sanction.

The lords also held the right of pursuit, by which they could follow a *mainmortable* who had abandoned the land to which he was bound. They could follow him, bring him back to their own jurisdiction, and punish him.<sup>2</sup> In the twelfth century the royal courts intervened to protect all those who were not body-serfs or personally *mainmortable*. All others were permitted to abandon the domain of the seigniory, on relinquishing the property they had received from it.

The melancholy fact shows through all history that the little freeholds, which had been obtained by free persons slowly and painfully,—as we have seen in the *Aire* partnership in one instance,—were absorbed again,<sup>3</sup> not into the common land from whence they came, but

<sup>1</sup> Tourmagne : *Histoire du Servage*, p. 258.

<sup>2</sup> The statute of Louis IX., in 1270, says : “He who will reclaim a serf shall make his demand, shall pursue it in an accustomed manner, even to the moment of battle ; and to the proof by combat. They shall substantiate that by witnesses, or by charters, or by other good and valid proofs which have been in usage even to this day. Thus he who pursues a man as his serf shall obtain him if his reclamation be established ; but if his demand be unjust, the *seigneur* shall impose on him such fine as he wills.” — *Isambert's Anciennes Lois Françaises*, ii. 372.

<sup>3</sup> Lodge : *Anglo-Saxon Land Law*, p. 89.

into the domains of the great proprietors and the religious corporations. From the seventh to the tenth centuries these freemen were driven to the "protection" of the lords and bishops, and "commended" themselves for safety at the price of their liberty. Even the mayors or intendants of villages were often serfs appointed by the lords, in the eighth and ninth centuries, in France. Charlemagne struggled to save these suffering persons from the pressure of these hard circumstances induced by constant wars and social disorder.<sup>1</sup>

This process continued. Europe grew sadder and darker, and its peoples groaned under this bad distribution of property,<sup>2</sup> this unjust deprivation of personal rights, this wretched system of social order.

Nevertheless, industry and thrift asserted their power, which cannot be wholly neutralized by the worst government. The serfs and villains gradually began to gain enfranchisement for themselves. Rights, especial privileges, and finally freedom itself were bought by these fallen descendants of the free Aryans, who brought the simple and hardy tribal relations into Europe. Not many emancipations occur in the tenth and eleventh centuries,—in the twelfth they were very numerous.

<sup>1</sup> "The free proprietors say that whenever they refuse to give up their inheritance to the bishop, to the abbey, or to the count, these seek to ruin them. He makes them go into the army until they are ruined, and may be brought to deliver up by free-will or by force their free-holds."—*Tournagne* (*citing capitulary of Charlemagne, iii., anno 811*), p. 75.

<sup>2</sup> Frederic Barbarossa caused his jurisconsults to decide at Roncaglia that as heir of Trajan he is the absolute master of the property of his subjects. This doctrine will be found in that of Louis XIV., when he says: "Royal goods, some of which are in our domain, and others which we will leave in the hands of our subjects." Ozanam: *La Civilisation, Cinquième Siècle*, i. 208.

The Crusades had stopped the petty fighting of nobles, and had turned the wars of nations against one great foe, who threatened all the classes, all the rights and privileges of Europe together. A great and generous passion moved the hearts of men, and the shock, directly or indirectly, affected all the institutions of society. Many nobles were ruined in their estates, but the enserfed freeholders bought their freedom again out of the wreck of the proprietary lords. Whole communities likewise obtained their freedom; social changes seemed at this time to work toward enfranchisement, just as five centuries before every change had been toward one or another form of slavery. In 1174 the king sells a charter of commune and of federation to sixteen villages, on the occasion of the death of their bishop.<sup>1</sup> Kings, nobles, and ecclesiastics freed their serfs for various reasons, until in 1315 Louis X. published his famous *ordonnance*, giving liberty with the power of redemption to every serf on the royal domain.

The mediæval person was bound to the group into which he was born, by some tie of duty or privilege. The personage in our time is another sort of character. Political and social recognition has no necessary connection with property and land. A general or author, an artist or laborer, may not have a foothold of land nor a dollar of property; but if he render any meed of social service, his personal right is as good as that of the greatest land-owner.

It was not always so. We cannot enough admire that beautiful social evolution by which the simplest person, whether man or woman, genius or fool, can play all the part in life which the nature of each will allow.

<sup>1</sup> Tourmagne : *Histoire du Servage*, p. 129.

We talk of government and law, the press and public opinion; but these institutions existed before Person representative government was imagined, before law was ever written, while language even finally rises above Property. babbled in infancy.

M. Laveleye, in his fine and elaborate research into the origin of property, already quoted, tries to establish that there is a natural basis of property on which every human being rests by his own right, and that society must secure this to the individual.

"En j'ai démontré, je crois, que tous les peuples ont eu primitivement une organisation qui assurait à tout homme une part du fonds productif. L'analyse fait voir aussi que la propriété est la condition indispensable de l'existence, de la liberté, et du développement de l'homme. Le sentiment inné du juste, le droit primitif, et le droit rationnel s'accordent donc pour imposer à toute société l'obligation de s'organiser de façon à garantir à chacun la propriété légitime qui doit lui revenir."<sup>1</sup>

With all his learning, M. Laveleye has read history backward. This sort of reasoning puts Nature above man, and property above the person. The one thing which society has refused to do in all times is to guarantee that property shall be the natural possession of every man.<sup>2</sup> Ranks and castes have in every way endeavored to extend and perpetuate their privilege, and thus gain liens upon property. The whole drift of modern time

<sup>1</sup> De la Propriété, p. 395.

<sup>2</sup> Certainly the United States homestead law makes a liberal recognition of natural rights. This broad statute gives land only on condition that the owner shall live on it and improve it. Mahomet, in the Koran, says: "Whoever gives life to dead land becomes proprietor of it." The settler capitalizes it, and thus converts a social right into an individual right.

has been to develop the person away from castes, and to cause him to rely upon himself for his property. The strong argument for slavery grew out of this supposed natural requirement for property. The unprotected human being could not care for himself, it was said; therefore property-holders, men who could sue and be sued, must care for him,—that is, take possession of him. Yet in the American rebellion and the Russian emancipation, the two greatest cataclysms of personal property the world has ever known, society did not dare to grant property outright to the person. The Northern members of the United States were exasperated enough, yet the freedman did not get his "forty acres and a mule." According to Mr. Wallace, the Russian serfs had the same deep-rooted instinct, saying to their masters, in good-humored sincerity, "We belong to you, but the land belongs to us." No one could prove out of the wanderings of Tartar hordes that it was not so; and yet the fact remains that society did not and could not set over property to each individual.

M. Laveleye finds in Java the preservation of the individual's natural rights in the property of the State; the native's right in the soil cannot be alienated. He shows that Java has latterly multiplied its population as fast as any country in the world. He thinks this a proof of the superiority of that sort of land-tenure. He forgets in the argument that the Laveleye's Javanese have been exploited for some three theory re- hundred years by the Dutch, one of the strongest-futed. est peoples in personal force. Had the Javanese been left-to themselves, they would have gone down before a stronger civilization. We may breed a number of semi-barbarians in that manner, and keep them in

order with a European strong hand. Persons cannot be developed by that mode; for the essence of personality and property go together: the person must be able to lose his own, or he cannot have his own.

If it were possible to mass property in this manner into the body of the State, the citizens under such a government would be, not freemen, but clients. There would be an immense State clientage crowned by the State holding the place of the old Roman patricians. Then add to the intelligence of an Athenian democracy the power of a modern political assembly, impelled by the unscrupulous activity of a cliental press; crown the representative ruler with the red cap of Robespierre, and robe him in Napoleonic plebiscites,—the result would be liberty, equality, fraternity, with property thrown in. We may have soldiers and citizens, knights and slaves, splendid civilizations with base peoples; we cannot have an orderly modern society without these two institutions of Persons and Property, which must exist together. They may not be coterminous. A particular person may have a better fortress for his individual rights than property can give him. In that event he has an equivalent in his own character, which must be based on some form of social obligation. The community may sustain a pauper; but it will do nothing for a person unless he does something in his turn. Duty is the sister of right.

We have seen that the early institution of property was a joint affair. Germinating in forms similar to the Iroquois joint-living, it passes into the more distinct and definite values of land, vested rights, and privileges in the early Aryan days. It could not be as Laveleye holds it to be,—an innate personal equipment; for the per-

son, except in the collective form of the house-father, was not then developed from the tribal masses, which had not organized themselves sufficiently to bring forth the person. Property, beyond the rudest tools and weapons, required social roots to nourish and expand it. Under the Roman law this social culture went forward in well-ordered and methodized steps. The *manus* of the Romans, the *mund* of the Teutons, was the social and legal rite by which the hand of the individual possessed itself of its own, while it was strictly subordinated to the social right of the whole people. This double attribute of power, this modulated strength by which the individual becomes stronger in his primary right in the exact proportion in which he regards his secondary or social duties, is the basis of personality. Now, he is not a chieftain or warrior, not a citizen or slave, not a noble or freeman,—he is a person. Out of the *patria potestas* and the *status*, the individual passes to the condition of the person; and he carries his property, one's own, with him. Contract is the sacrament and symbol of this beneficent development. The *nexum* binds man to man with solemn force, and ordered custom consolidated into law replaces the fierce battles by which individuals fought for their rights.

The primary group of the tribe or the rudimentary State gradually drops its social attributes, and confines itself to its military and political functions. These social attributes are not lost, but furnish activity to other groups. The kindred groups, the family and the clan, shrink into closer individual relations, and their social attributes pass into the community at large. "Protection," which once bound lord and vassal to-

gether, becomes in these latest days the duty of every member of society. Each one of us must protect, in so far as he is able, any one whose need justly calls for help. Each of us is protected by a stout network of customary law, and still better by that pervading social atmosphere which we call public opinion.

This grouping process, this power of the individual and of society to form centres of activity within the social mass, shows its fruits in the Roman law. The seeds and the process of germination are better studied in the land-tenure and social attributes of feudalism. The minute Irish customs formulated in laws carry us back to the full development of the tribe, to the infancy of the State. The *taurcrech*, gift, the *rath*, wage-gift, was the symbol of the growth of peaceful obligation out of force and slavery. "Giving stock" was a hard contract, but it was better than mere robbery, cattle-raiding, and the division of spoils, which followed the warlike expeditions of still earlier times. The *wergeld* is the symbol by which revenge was commuted into justice, and private feud was raised into social obligation. The ranks of the feudal system never degenerated into mere castes, but kept their tides of social movement. Land was then the only sure basis of property, and its tenure aided the development we are describing. The folk-land outside the homesteads was gradually absorbed into book-land, and the individual owners were thus enabled to support larger groups of people. Above all, the *Aire* partnership reveals to us an ingenious method by which property could be safely parcelled away from the common domain, and at the same time the personal power of a noble could be attained through association and representation. M. Laveleye's generalization of the in-

nate rights of man into settled rights of property falls to the ground. That indispensable condition of the liberty and development of every man, which Laveleye finds in property, would reverse the plain facts of history. Every man must be tried anew before society intrusts him with property. The more easily it is acquired the more easily it departs in unthrift. The mind of man has not been able to devise a certain perpetuity for both person and property. Great estates are entailed in old civilizations, but where are the persons who shall inherit them? The property rolls on, but the records of families show few long lines of descent through these increasing estates. The Nemesis of civilization smothers those votaries who would absorb all its benefits into themselves.

Thus we see that person and property are orderly developments, both in historic growth and in their essential

Persons and Prop-  
erty,  
necessary social fac-  
tors.

philosophy. The basis of property is not born in the individual person, nor is the personage a function of property. Both are based on social obligation, and any man can acquire them both in any country where civilization prevails.

In a country where social functions are highly developed, as they are in America, the acquisition is easier and the possession more uncertain. The person must control circumstance. Thrift and intelligence, will and judgment are essential attributes, if the individual would in his own *manus* hold both person and property.

Many who accept the institution of property in all other things would put land under another tenure, holding it for the common source of wealth. The source of wealth is not in land, but in society,—as we first illustrated by the axe, the lumber, and the table. The land

is no more the source of the civilized crop growing on it, than the water is the source of the steamship which it bears upon its bosom. Let us give a fanciful, but none the less true, illustration. Suppose the great Atlantic water-way should become so crowded that the civilized governments would find it necessary to track it from Europe to America, to divide it into courses for swift and slow vessels, as they do for wagons on London Bridge, and finally to employ a great corporation to police this arrangement, and collect tolls for the service. We should then have all the difficulties on water which Socialists make on the land. But society would say: "Civilization needs this water for the better movement of its daily life. If you wish to sail your vessel 'free,' go where there is less civilization." This is in principle what old communities have done with land, and what new communities have so far been obliged to do when they have fenced in the common domain.

Universal suffrage is one modern political institution which springs directly from persons. Theories and many sound maxims of government can be and are maintained against this principle; yet it extends constantly under different polities and the most varied forms of society. We must not forget that land is the final basis of property and the indestructible form of wealth. Any country which has closed the issues of its folk-land must look carefully to the issues of civilization. The homestead was the matrix of the Aryan civilization, and the source whence persons came forth into the larger community of society. When land ceases to be a constant social factor, moving with the current of civilization and changing with its course, then the person can no longer, Antæus-like, reach his mother earth,

and the harmony between persons and property is endangered.

This evolution of person and property was achieved through capitalizing, as I term the same process to-day, and under the new social conditions of this day. The count who received a tract of land undertook for himself and his companions to return certain social equivalents, in good order, protection, and in the taxes of various sorts which his fief enjoined. The *Aire* partners received the common land in order that they might improve it better through the co-operative right they acquired. It was by capitalizing this land with the labor of themselves and others that they obtained new social force of their own, and for the whole community.

*Capital and Capitalizing.* The idea of capital was not developed until chattel and cattle played a large part in the social movement. The present idea of capital which the economists are prone to overlook, and which the popular consciousness holds fast, is kindred to its first signification. The feverish discussion of the terms shows that there are ideas beneath, which are not fully unfolded. It is time that capital should be analyzed again, and made to fit the present time. Capital is told wealth, just as it once meant cattle told by the head. Is this all? The moment capital, or wealth, affiliates with labor, another function begins, which is the heading of the enterprise. The header, captain, intertaker, *entrepreneur*, must conduct the operation. He must not only lead it, he must commute it into capital. He must be a strong man, who can sue and be sued, to make good to labor and to society the task he undertakes. Both the labor and the capital must be headed constantly, brained, as it were, with thought, until it returns into capital

again. This is a process of transmutation and correlation, and not merely the function of an individual.

Labor waits, capital rusts : the heading of the capitalizer must lead them forth and turn them into new products, into new reserves of social energy.

We cannot close a discussion upon property without referring to the views of M. Proudhon, which have influenced a certain class of minds materially. His works are still read, and furnish the weapons for many agitations of this social question. His central statement, that "Property is robbery," does not convey his whole idea, or it would have been forgotten long ago. That expression merely shows his form of attack. To say that property is an institution about which men have differed and probably always will differ, would be a common-place affair. But boldly to affirm that it is mere robbery,—that arrests attention, and accordingly the world listens. Those who have no property hear with joy ; those who have it hear with a faint terror, which adds to the solid sense of possession the delicious levity of sin. Altogether, it is a more demoralizing statement than would at first appear.

We cannot, however, dismiss the statements of Proudhon simply because they are put forth in the form of a paradox. He inverts terms, not necessarily to abandon his logic, but to give it an indirect and more penetrating force. The early efforts of the economists to find the laws of exchange, carried them into many regions of social science where their methods had no proper place ; they took up untenable positions, and Proudhon has attacked them with great force.

He founds his own notion of property on equality :

"From whatever point we view this question of property,— provided we go to the bottom of it,— we reach equality. I will not insist further on the distinction between things which can and things which cannot be appropriated. On this point, economists and legists talk worse than nonsense. . . . Once the possessions of the church, the estates of the crown, the fiefs of the nobility, were inalienable and imprescriptible. If, instead of abolishing this privilege, the Constituent (of 1789) had extended it to every individual; if it had declared that the right of labor, like liberty, can never be forfeited,— at that moment the revolution would have been consummated, and we could now devote ourselves to improvement in other directions."<sup>1</sup>

He does not mean by equality an exact assimilation of all individuals, as we shall see in another connection:

"Labor leads us to equality. Every step that we take brings us nearer to it; and if laborers had equal strength, diligence, and industry, clearly their fortunes would be equal also. Indeed, if, as is pretended,— and as we have admitted,— the laborer is proprietor of the value he creates, it follows —

"1. That the laborer acquires at the expense of the idle proprietor.

"2. That all production being necessarily collective, the laborer is entitled to a share of the products and profits commensurate with his labor.

"3. That all accumulated capital being social property, no one can be its exclusive proprietor."<sup>2</sup>

He does not adopt the Socialist system of St. Simon and Fourier. His mode of reaching Socialism is different. In order to establish his social principle of equality, he maintains that all wages would equalize themselves under his system of labor and recreated property, because

<sup>1</sup> Proudhon : What is Property? ch. iii. § 1. (Tucker's Tr. p. 92.)

<sup>2</sup> Ibid. ch. iii. § 5. (Tucker's Tr. p. 120.)

each laborer would be paid in the products of others, and thus receive them at what he terms their cost price :

"Every industry needs — they will add — leaders, instructors, superintendents, etc. Will these be engaged in the general task? No; since their task is to lead, instruct, and superintend. But they must be chosen from the laborers by the laborers themselves, and must fulfil the conditions of eligibility. It is the same with all public functions, whether of administration or instruction.

"Then, article first of the universal constitution will be : 'The limited quantity of available material proves the necessity of dividing the labor among the whole number of laborers. The capacity given to all of accomplishing a social task, —that is, an equal task, —and the impossibility of paying one laborer save in the products of another, justify the equality of wages.'"<sup>1</sup>

"The principle, *To each according to his labor*, interpreted to mean, *Who works most shall receive most*, is based, therefore, on two palpable errors: one, an error in economy, that in the labor of society tasks must necessarily be unequal; the other, an error in physics, that there is no limit to the amount of producible things."<sup>2</sup>

"The whole nation, and the nation only, pays its authors, its *savants*, its artists, its officials, whatever be the hands through which their salaries pass. On what basis should it pay them? On the basis of equality. I have proved it by estimating the value of talent. I shall confirm it in the following chapter, by proving the impossibility of all social inequality.

"What have we shown so far? Things so simple that really they seem silly: —

"That as the traveller does not appropriate the route which he traverses, so the farmer does not appropriate the field which he sows;

"That if, nevertheless, by reason of his industry, a laborer

<sup>1</sup> What is Property? ch. iii. § 6. (Tucker's Tr. p. 128.)

<sup>2</sup> Ibid. p. 127.

may appropriate the material which he employs, every employer of material becomes by the same title a proprietor;

"That all capital, whether material or mental, being the result of collective labor, is in consequence collective property;

"That the strong have no right to encroach upon the labor of the weak, nor the shrewd to take advantage of the credulity of the simple;

"Finally, that no one can be forced to buy that which he does not want, still less to pay for that which he has not bought; and consequently that the exchangeable value of a product, being measured neither by the opinion of the buyer nor that of the seller, but by the amount of time and outlay which it has cost,<sup>1</sup> the property of each always remains the same."<sup>2</sup>

Passages may be detached from other portions of his works which would contradict some of these positions. We cannot follow him from one premise to all others, for he is unscrupulous in argument. His grand sum-

<sup>1</sup> Cost is used here in the same sense adopted by Josiah Warren Socialist (see p. 198). It is a mere metaphysical figment. Warren theory of actually put into use in a Western community dials to measure cost. ure time-cost, time-notes for cost-exchange, and such paraphernalia. The only discovery of the cost of any article which man has ever made has been through the competition of two individuals, or groups, in producing it. States or despots have never been able to invent a test which would work as well as this competition. Compare the work done in Government yards and arsenals with the same quality done by individuals, and this principle reveals itself. The theory of Russian absolutism is based on the same communal idea. The czar stands for all; all is for the czar. Ideally this is a perfect system. How the system works when applied to affairs, the invariable corruption in every movement of the Russo-Turkish war well shows. The only means of arriving at a true cost in economics is to put two men at work against each other: by working against each other they work for the whole society. Put either at work alone for society,—the result would be different. This is all we know about cost. The remainder is all theory.

<sup>2</sup> What is Property ? ch. iii. § 7. (Tucker's Tr. p. 147.)

ming up of the "impossibility" of property, argued through another long chapter, is in these words :—

" Finally, property is not self-existent. An extraneous cause — either *force* or *fraud* — is necessary to its life and action. In other words, property is not equal to property: it is a negation — a delusion — *NOTHING!*"<sup>1</sup>

These citations show his meaning in the propositions and arguments from which they are taken. I have culled them so freely and brought them together for two reasons. First, to show the danger which lurks in the doctrine that the source of all wealth and capital is in labor alone. This has been steadily maintained by grave economists, as well as by those fiery exponents of the platform who can so readily destroy the world and construct it again, in less than the six days of the ancient Hebrew chronology. To these nimble inventors of institutions and forces, the works of Proudhon offer an inexhaustible mine of explosive maxims and paradoxes. And, secondly, I would show inversely from these positions of Proudhon how the Group affects men socially, and how it keeps property, as well as the other results of civilization, from waste and destruction.

Proudhon constantly talks of the association of laborers; but he ignores the primary germs of that associative power by which individuals are first drawn together, and a structure of any kind of social system is begun. Large associations, nations, or states, grow out of small associations.<sup>2</sup> Social structure grows out of the innumerable

<sup>1</sup> What is Property ? ch. iv. § 10. (Tucker's Tr. p. 223.)

<sup>2</sup> See *infra*, p. 281.

groups of capital, labor, capitalizers, and capitalizing,—just as the human body grows from a cell to an embryo, and from an embryo to an organism.

The instinct of Communism has been vaunted as if it were a step forward in development, and a higher as well as a later form of social life. Natural history is coming to assist philosophy in this direction, and proves that the communal instinct is a lower form of sociality, which has been used and thrown off in the ascending processes of life.

The higher orders of ants cultivate the ground, sow seed, weed the crop, harvest it and preserve it in the most careful manner from damp and fermentation. They lay out roads and tunnels, maintain a police, and make war by systematic methods.

"It has been remarked in the 'Quarterly Journal of Science,' that ants, unlike men, have solved the problem of the practical organization of communism: this is literally true. In a formicary we can detect no trace of private property; the territory, the buildings, the stores, the booty, exist equally for the benefit of all. Every ant has its wants supplied, and each in turn is prepared to work or to fight for the community as zealously as if the benefit of such toil and peril were to accrue to itself alone."

It is a common remark of the biologists that man contains in himself all which the Creator has made in the lower forms of animal life. The communal ant is not lost in man, but its functions are superseded by individual and social functions. In order to develop the individual from a mass of units, it was absolutely necessary to give him power to absorb a portion of the life of other units, whether human or animal. This raised the individual man into being. With the power

to rise came the liability to fall; and the individual gained the still more dangerous privilege of dragging others with him: he could not only raise but ruin all within his sphere of influence. With this individual power there was a duty imposed,—a duty as strong as necessity itself,—that the individual must raise in his own elevation others with him. His power could not take from other units, making them less; but through their action all must be raised together. This is society; and the immediate force which propels it is the group working with and through the individual, as I have described it. Whenever individuals and societies lost these vital characteristics, they languished and died.

This process seemed hard at first: it always will seem so. The single glory of Charlemagne shines always, while the beneficent light which his orderly institutions carried through so many homes fades in the confusion of history. That one man should have the ~~social~~ prestige of the person and the immediate force of property, while another has only the ground his feet can cover, seems an anomaly in a world of plenty. Lassalle and Proudhon voice this ~~deadly~~ instinct. "Property is robbery, interest and rent are extortion," is a mere shriek which echoes the communal instinct: it is man's inheritance from the ant. It is related of Proudhon that late in life, when about to be married, he was very sharp in securing a certain disposition of the lady's property. Her attorney met him with, "La propriété, c'est le vol;" but he coolly answered: "Be pleased, my dear sir, on such an occasion as the present, to be, if possible, a little serious." Whether the story be true or not; whether Proudhon was sincere or not,—is not of the least conse-

quence. It shows what the hard common-sense of mankind everywhere recognizes,—that the communal instinct is never proof against the immediate power which the personal possession of property exerts. The records of communistic and semi-socialist experiments often show, that men who begin communism with the generous desire to create more for everybody, end by appropriating the already created property of somebody. The ants are equal to the communal effort ; men are not.

We therefore hold that while civilization lasts, Person and Property will be fixed institutions ; and that the social group will be the chain which binds them into that whole which is society.

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**THE CORPORATION.**



## II.

### THE CORPORATION.

I TRUST that the institution of the Person now stands upon our canvas in its historic perspective. It will readily occur to the reader that an institution so essentially civilized must produce others akin to itself. The Romans, with that wonderful genius of organization which gave them possession of the ancient world, early perceived the force which a development of the conception and the powers of Person would carry with it. The Corporation sprang from this idea. This body <sup>Personality</sup> has always been known by its common seal or <sup>of the Cor-</sup>signet. *Sigillum*, the private signet which <sup>poration.</sup> played so great a part in Roman intercourse, bore a little image upon its face. The Corporation, having adopted this mode of transmitting personality, carried the mark, the power, the character, of Person into its artificial and collective personage.

*Collegium* was the first form of the Corporation; and according to Savigny this was a collection of persons. The members were *collegæ*, or *sodales*: this latter is one of the oldest collateral words, and is directly allied to *socius*. The college was also called *corpus*; it <sup>The Ro-</sup> had a common chest, and could hold property, <sup>man Col-</sup> sue or be sued through its *syndicus*, or actor. <sup>lege.</sup> These *collegia* varied in their functions; some were religious bodies, some were made up of artisans, while some were devoted to government, and to the adminis-

tration of its affairs. Municipal corporations, as legal fictions or personalities, undoubtedly sprang from this latter form of the early *collegium*.

If the person took its *persona*, its character, from an elevated individual,— one greater than and distinguished from the common mass of mankind,— we may suppose that the corporation took its body, its collective form of life by which it could act and perpetuate itself, from the already developed institution of the person.

But the terms *corpus* and *collegium* could not construe and render all the vital force which grew with the increasing civilization of Rome. The jurists divided things into two great classes,— those corporeal, or the objects of sense; and those incorporeal, the objects of the intellect only, or abstractions as we should say in modern language. In a thing corporeal there are parts in reference to which the whole is a *universitas*, or a unit. But there are parts of things corporeal which are essential to the constitution of the whole, so that the whole cannot be divided into parts,— as a living animal <sup>Analysis of Universitas.</sup> for instance. Beside the corporeal parts into which a thing is divisible, we may suppose incorporeal or ideal parts of a corporeal thing. These parts are assumed fractions of a whole, not corporeal parts. Thus several persons may be joint-owners of a piece of undivided land, but no one can say that any particular part belongs to him. On the other hand, the whole may be ideal, and the parts corporeal: thus a flock of sheep is an ideal whole, and the several sheep are the independent corporeal things. As a number of sheep must have a name,— a flock,— in order to be designated as one notion, so a juristical person must have a name, as the *universitas* of *Fabri*, or the city of Rome. “The term

*universitas*, then, may have various senses: (1) Both the *universitas* and the parts may be corporeal; (2) The *universitas* may be corporeal, and the parts incorporeal, as when we imagine fractional parts of a thing; (3) The *universitas* may be incorporeal, and the parts corporeal, as a flock of sheep; and (4) The *universitas* and the parts may both be incorporeal." This is in substance Mr. Long's analysis founded on the studies of Savigny. The term was adopted in the Middle Ages to denote certain great schools; but it was not the scholastic function, it was the corporate function, which conferred the name.

A single person only can be properly viewed as the subject of rights and duties; but the notion of legal capacity may by a fiction be extended to an imaginary person. But the fictitious person, the *universitas*, is not a unit composed of the real persons; it is a name in which the several persons, or a majority, may act for certain permanent purposes. The purpose itself is sometimes the fictitious person. The body thus created could hold property, including slaves, and could act through an agent: it became a juridical person. Among the leading bodies formed under the *collegium* and *universitas* were religious associations, like the priests and the vestal virgins,—associations of officials and administrators, like the *Scribæ*; associations for trade and commerce, like the *Fabri* and *Navicularii*, where the profession was a unit, but each man worked on his own account; associations called *Sodalitates*, friendly or political, which resembled modern clubs. There were also under the empire *collegia tenuiorum*,—associations of poor people, more restricted in their privileges. A man could belong to only one, and a slave could be a member

with the consent of his master. No *collegium*, or juridical person, could be formed without the permission of a *senatus consultum*, or the Cæsar; and persons who associated unlawfully were guilty of an extraordinary crime. No union of persons could form a juridical person without the consent of the proper authority; and this is quite distinct from the provision contained in the same rule of law which punished associations of persons who acted as corporations, for this part of the rule relates only to such associations as were dangerous or undefined. The term "university," in its large social and legal sense, has been disused, and the modern corporation has nearly all the above described powers. The *collegium*, *civitas*, *municipium*, each a form of the *Universitas*, were carried over into the Gallic and French, the German, English, and other civilizations during the decline of the empire.

We can trace the later or post-Roman development of the *collegium* in the Gallic provinces. It was the social substitute, the artificial equivalent, for the early Aryan household. Society passed from these early stages to the great Roman *gentes*, and then adopted the college and the corporation as a ready means by which every man could In Gaul be bound to the State by a social tie. It was Corporation binds Society together. through this carefully defined obligation that he should require the State for its protection and its privileges. Individual liberty there was none. In the first centuries of our era, Gaul<sup>1</sup> re-

<sup>1</sup> "Two centuries after the Conquest, Gaul was the most flourishing of the provinces of the empire. They built in Roman style, and adopted, not only the political institutions, but the manners and tastes of the mother country. Like Rome, they had artisan slaves, whose masters exploited or let their labor; and as the slaves were not numerous, there were very many more free workmen, who were, as at Rome,

flected this social system and organization completely. This complex civilization, which made Gaul one of the richest and most flourishing districts of the Roman world, and the effects of which remain in the France of to-day, was rudely broken down during the fifth century. It was not restored until the time of Saint Louis, in the thirteenth century. The capitularies of Dagobert and of Charlemagne<sup>1</sup> teem with evidence on the struggles of all these social factors—colleges, corporate workshops, free artisans, chartered guilds, imperfect communes—with the barbaric lords who had seized the sovereign powers of the Roman empire. The feudal system, naturally belonging to an earlier period of development, came in with its ruder methods and simpler social tenure to interrupt the orderly course of civilization on the fair lands of Gaul.

An interesting institution of this period was the *manse*, or household organization, by which the feudal proprietors, whether barons or ecclesiastics, <sup>The Frank-</sup> held and managed their lands. It had attained <sup>ish</sup> *Manse*. its full development in the Carlovingian epoch, and we can trace in its structure the minute divisions and close inter-relations of property and personal rights. The word properly belonged to the habitation, but it was also

organized in colleges or corporations. These colleges were regulated by severe laws. As their rebellious spirit or their intrigues were feared, it was required that they should be regularly qualified; and the qualification was pretty rare. All the trades, all the professions, were governed by this régime. Once admitted to a corporation, it was forbidden to leave it. Liberty did not exist in any part of the society of the Roman empire. Each one had his chain. The *colon* was enslaved to the soil; the *curial* to the city; the tradesman to his shop; the workman to his corporation. No one had the right to quit his duties, and to deprive the State of his services."—*Tourmagne's Histoire du Servage*, p. 108.

<sup>1</sup> *Tourmagne*, p. 111.

applied to the land attached to it,—and this in the tributary kinds never exceeded forty-five acres; it was generally less. The seigniorial household, or *chef-manse*, was held by the proprietor, or by one to whom he had delegated a portion of his powers. These intermediate rulers were often serfs (persons of mixed condition), as we see in Saint-Germain-des-Prés. This central estate had a greater or less number of tributary *manses* attached to it which paid rents, and also furnished without charge most of the labor necessary to improve the seigniorial domain. About the year 841, one of these *chef-manses*, belonging to the Abbey of Nideralteich, had a family of twenty-two serfs, including their wives, living on one hundred and thirty *journaux* of arable land. Usually there were a manor-house, a kitchen, bakery, buildings for serfs, workshops, barns, stables, and all the apparatus for rural good living. Of course, these seigniorial households contributed in turn to the abbey, bishop, or baron.

The tributary households which were grouped around the seigniorial *manse* were curiously subdivided into three kinds,—the free (*ingenuiles*), the *lidiles*, and the servile. The free *manse* remained so, even when it passed into the hands of a serf; and the servile *manse* did not change the nature of its tenure when it became the possession of a freeman. The condition of the lands did not depend on that of the persons. The title, after the time of Charlemagne, whether free or servile, was attached to the land and not to the possessor. The free *manses* contained more land than the *lidiles*, and these more than the servile; the relative scale of rents and tribute was the same. The free *manses* owed the tribute of war and the rent called *ligna silvia*, which implied the right of usage in the forests; while the servile *manses* were nearly

always exempt from these "prestations." The servile *manses* paid in torch-wood, iron, mustard, and hops, which were not exacted from the free grade; they were compelled to cultivate the vine, and this was rarely imposed on the free *manse*.

The *lidle*, or *lite*, was a man whose condition was intermediate between the freeman and the slave. In the old Salian and Riparian laws, his *wergeld* was half that of a freeman, and three times that of a slave. When Charlemagne revised these laws, he made the honor-price of a Frank six hundred sous, that of a *lidle* one hundred, and that of a slave fifty. This would indicate that the *lidle* gradually fell in condition. On the other hand he differed from the *colon*, another intermediate, who was bound to the soil. The *lidle* owed personal service, and must accompany his master to war, beside cultivating the land in time of peace.

There are many other distinctions and minor differences which further classify and complicate this interesting form of mediæval society. I have described these households to indicate the careful system by which person and property were allotted to these classified members of society. The old *Aire* partnership among the Irish Celts shows how the freehold was gradually possessed by the freeman, under a fixed obligation to the society in which he lived. These later forms of personal half freedom and of land tenure, modified by the *ingenuile* and *lidile* distinctions, show us how both liberty and property tended to slip backward into the control of the feudal lord. Personal liberty and independent property worked slowly out from the common control of the tribe

The Celtic  
*Aire* an in-  
cipient Cor-  
poration.

embodied in the chief; then it constantly struggled against reabsorption by the feudal lord. The centralized force of the Roman system apparently gave a new impulse to this supremacy of the lord. The unfree man sank lower and lower in France, until the Crusades and the Reformation lifted society to a higher appreciation of the rights of the individual man.

In the transfer from Roman life, these institutions were much modified by the differing social life of the barbarians who adopted them. There is a vague region of mediæval history lighted by the great sun of the Roman law from the one side, and by the dimmer but not inferior star of the early Aryan and Teutonic civilization from the other. Questions regarding the origin of institutions, not otherwise accounted for, have been referred to Feudalism. This is an obscure historic term; and, as I have indicated in another connection, it covers an immense growth of social as well as military and political custom and law. It is clear, however, that the old Germanic institution,<sup>1</sup> which foreshadowed the modern Corporation among those peoples, adopted and modified the social and political *universitas*, which they derived from the Romans. Monastic life born out of the *collegium* carried the corporate<sup>2</sup> spirit wherever it planted itself. England has preserved the evidences of this transition in more archaic form than any other country can show at this day. The frith-guilds, town-guilds, and merchant-guilds played a great part in both the social and political development of England after the Conquest. I say, after the Conquest, for the oldest guild-statutes considered trustworthy by Dr. Bren-

<sup>1</sup> Otto Gierke: History of German Corporation Law. p. 151.

<sup>2</sup> Stubbs: Constitutional History of England, i. 223.

tano<sup>1</sup> date from the beginning of the eleventh century. But the customs on which these statutes were founded extend far back into Saxon times. Toulmin-Smith, according to his daughter's account, considers the guild older than any king of England.<sup>2</sup> It is probable that the Norman lawyers, with that organizing skill which they had drawn from Rome, reduced the custom and traditional law of the guilds and other municipal institutions to chartered form.<sup>3</sup> There was not that clear division between the municipality, the guild, or other social body, and the central power of the State, which modern society has effected. The Roman *imperium*, or sovereignty, found no immediate or constant resting-place among Germanic institutions. Sovereignty, which dwelt in the folk-moot, the principal Germanic assembly, was parcelled out and struggled for by municipality and commonalty, by lords and burgesses, until the great central power of the modern State was forged into being. In this fateful struggle the Corporation was a constant agent, and underwent important changes.<sup>4</sup> In the early

<sup>1</sup> On Guilds, p. 1.

<sup>2</sup> Early English Guilds, p. xv.

<sup>3</sup> Brentano cites Madox : *Firma Burgi*, p. 27. "Peradventure from these Secular Guilds, or in imitation of them, sprang the method or practice of gildating and embodying whole towns."

<sup>4</sup> There were nice and curious distinctions made while this outgrowth went on. Kyd cites a decision of the court : "Though the city of London cannot make a corporation, as that can only be created by the crown, yet they may make a fraternity or fellowship ; and the court thus distinguishes, 'that a corporation is properly an investing of the people of the place with the local government thereof, and therefore their laws shall bind strangers ; but that a fraternity is some people of a place united together, in respect of a mystery or business, into a company, and their laws and ordinances cannot bind strangers, because they have not a local power or government.'"

Kyd holds this to be inaccurate, and defines thus : "The true distinction seems to be, that a company incorporated by king's charter can act as a corporation by its own intrinsic powers, without assistance or pro-

English guild, which was partly a *collegium* and partly a *municipium*, the functions were both political and social. Mr. Toulmin-Smith<sup>1</sup> sagaciously says that a corporation — in the political, not the modern commercial sense — is not created by the recorded charter or act of incorporation.<sup>2</sup> The town corporation began in the old "frith-borh," or "peace-pledge." This was "tithing,"<sup>3</sup> — by which ten men bound themselves for the *wer-*  
 Town based on pledging *geld* and other responsibilities of each other, together of and the affairs of the whole were managed by persons. one who was the head-man or "capital-pledge." This is doubtless an extension in principle of the Irish *Aire* partnership. But "tithing" also meant "town";<sup>4</sup> the organization by tens extended into the "hundred."<sup>5</sup> Every man at a certain age was enrolled in these associations, and thus became a member of the *communitas*, whether this was located in a city or a country parish. "Parish"<sup>6</sup> is another form of corporation existing in England to-day, and its functions show how the religious,

tection of the corporation of a town; but a company established by the mayor and commonalty of London, though allowed to be a legal institution, cannot act of itself as a corporation, but its members must assert their claim of privilege under the prescriptive right of the mayor and commonalty to establish such a company." — *Kyd, On Corporations*, i. 47, 48.

We must mark the distinction between the corporate powers flowing directly from the sovereignty of the crown and those transmitted through the medium of the municipality.

<sup>1</sup> Early English Guilds, pp. xxii, xxiii.

<sup>2</sup> The courts have been obliged to adopt this principle. "A Corporation by prescription" is said to have existed from time immemorial, the charter having been lost. (*Kyd: On Corporations*, i. 14.) This is a legal fiction.

<sup>3</sup> Stubbs: Constitutional History of England, i. 86.

<sup>4</sup> Ibid. i. 85.

<sup>5</sup> Adams: Anglo-Saxon Law, p. 20.

<sup>6</sup> Stubbs: Constitutional History of England, i. 85.

social, and political life of the English was commingled and blended in the early time. The *communitas*, thus acting, usually but not always had a representative council. This body came in common usage to be the Corporation; it was headed by the "provost," the "constable," the "bailiff," or the "reeve."<sup>1</sup> The names reveal their Norman and Saxon origins, and they varied until the Corporation-Reform Act of William IV. In the ancient sense, the whole body was the Corporation; it consisted of the commonalty and "the four-and-twenty sworn men," or other number of burgesses who acted with the head-man. The principle seemed to be, that, as fast as any new force in civilization appeared, there was a local form of organization germinating to receive it. The lord was ready both as military protector and as judge, and generally was trying to exact more power from the free-men and burgesses than they would willingly grant. The "court-baron," or manorial court, had a civil jurisdiction. The "court-leet," the older and more popular institution, had both civil and criminal jurisdiction; it especially controlled the "view of frank-pledge," the mainspring of personal rights and obligations Frank-  
in Teutonic society. By the frank-pledge all pledge substantial members of the community were binds per-  
bound together, and each became responsible sons into the Corpo-  
for the other. Liberty, which tended toward ration.  
license in other civilizations, was weighted by this im-  
portant institution, and its power was consolidated while  
its motion was regulated by this friction of responsibility.  
The frank-pledge was one of the main foundations of the  
person in the Teutonic communities; and "the view,"  
as it was called (the regulation of it), became an impor-

<sup>1</sup> Toulmin-Smith : Early English Guilds, p. xxiii.

tant prerogative in the court-leet and other powers which obtained it.

Much has been said of the sovereignty of the people, and of sovereignty as not residing in the people, but in crown, parliament, or other institution, which is again derived from some source farther back. People will view this question as their sympathies incline them to force direct or force indirect in human government, for no government can exist without force. The point I would bring forward is this: that we have not enough regarded the growth of the small organisms by which the free spirit, the kingly power, of each person developed by the Germanic races was moulded into the orderly and balanced functions of the modern citizen. The Roman *collegium* was a social branch of the great tree of state, a mere off-shoot from the trunk, bearing no political flowers or fruit of sovereignty; the Germanic guild and corporation, likewise born in the parent trunk, branched forth in the social soil which gave life to the whole, and, running through it, became a "sucker" that could reproduce the parent tree, if circumstances should favor it. These minor institutions, entangled one with another, fettered and choked the life of the State. England and America first reduced them to order, and developed them all into political harmony; Germany labored until 1870, and France has struggled and still struggles in a swamp of imperio-personal powers, émeutes, parliamentary revolutions, plébiscites, and strangled communes. The Teutonic *imperium* is not a despotism of one or many, a machine to be bought in the market and run at the will of the owners. Imperial sovereignty is a human organism, inspired by the divine will, bred and nourished

Development of Sovereignty.

from the warm life of a free people, which puts forth its power through those trained organs of person, municipality, and parliamentary assembly inherited from all the periods of Aryan life.

The guild-corporation was not the only method by which municipal independence was worked out in England. In some cases the local administration rested on a borough or commune, which was political in origin; in others it stood on a merchant-guild, which was socio-political in origin. The State apparently had no fixed principle by which it could regulate them. The king watched jealously to see whether these guilds would take away any of his prerogatives. At other times he used them to extort more prerogative from the barons, granting to the burgesses desiderated privilege in return. The political sucker, as we have termed it, was taking up the sap of sovereignty from English soil. According to Professor Stubbs,<sup>1</sup> in the time of Henry II. the merchant-guild of York was recognized, but the *communa* of London was kept under surveillance, and discouraged. London always troubled the absolute rulers. In the Norman time, London<sup>2</sup> was made up of every kind of local government, parish, manor, guild, etc., — even the aldermen were sometimes barons; but its unifying principle was founded, not on the municipality, but on the wider unit of the shire. In the reign of Henry II. eighteen "adulterine," or illegal and unauthorized, guilds were fined in London. In the time of Edward II. every person, whether a resident and householder of the city or not, must be a member of the "Trades," or "Mysteries," or be admitted by a full vote of the whole *communa*,

Slow passage of the Guild into the Municipality.

<sup>1</sup> Constitutional History of England i. 418.

<sup>2</sup> Ibid. i. 407.

in order to enjoy the complete rights of a citizen of London.<sup>1</sup> The privileges won by these local corporations were not unmixed blessings to the commonalty. The rights of "protection," administered by the lord, were complemented by the privileges which the burgesses and craftsmen extracted from the sovereign power, and then administered chiefly for their own class. But, generally speaking, the corporations were popular institutions, and the guild and municipality moved together in harmony.<sup>2</sup>

On the Continent the development of the guild into local self-government was not so effective as we have seen it in England, and the whole of central Europe has been modified in consequence. Charlemagne, one of those rare men whose genius it is to govern rather than to rule, tried to preserve<sup>3</sup> that balanced order of individual liberty, self-government, and subordination to the common law which was germinating in the Corporation. The local sovereignty, which bore so rich fruit in England, was cropping out in the Frankish local institutions, and was cherished by the mighty emperor. His successors sought to magnify their own rule by absorbing these "suckers" of sovereignty; the final result was that the German *imperium* swallowed the Corporation.

German Corporation in the Roman *universitas*, the Corporation without gaining any essential life of its own. The Corporation, in its struggling existence after Charlemagne, was a power, but not perfect. sufficient for the demands which the mediæval civilization made upon it. The principle of sovereignty

<sup>1</sup> Norton : History of London, p. 120.

<sup>2</sup> Toulmin-Smith : Early English Guilds, p. 348.

<sup>3</sup> Gierke : German Corporation Law, p. 151.

tions, could not manifest itself, for the person was not sufficiently developed through which this larger institution could extend itself into political and social life. The Corporation existed only for the class of freemen, which class the villain and serf could not reach on the Continent, as they could in the more localized communities and municipalities in England. The corporators developed a spirit of liberty and of manly independence, but there was a narrow caste feeling, an aboriginal inheritance, which animated their action. The tribal and clan spirit had not yet widened into the nature of the *civitas*. This arrested development of the Corporation left its traces in the constitution of the German free city. The origin of this city is not altogether clear, but it was founded on the Corporation,<sup>1</sup> and was only in part a *civitas*.

Probably the "Charters of Community," which appear in France toward the beginning of the eleventh century,<sup>2</sup> were steps between the mark, or village community, and the municipality,<sup>3</sup> or free city, among both the French and the German peoples. The French charters were earlier in date, but the German extended communal rights farther. These charters indicate the beginnings of regular government and of law made by the governed, taking the place of the law which was administered by the barons in the spirit of "protection," or feudal law.

Municipal  
develop-  
ment in  
France.

<sup>1</sup> Gierke : German Corporation Law, p. 250.

<sup>2</sup> Prescott : Robertson's Charles V., i. 250, *note*.

<sup>3</sup> "For, after all, what is the Commune of the Middle Ages, if not the association of all associations in the bosom of the same city?"—*De La Farelle's Progrès Social*, i. 309. "Without, they were fortresses; within, they were fraternities. They were, in the language of the time, places of friendship, of independence, and of peace."—*Thierry*, iii. 493.

The fundamental principle in every charter was, that every member on oath should defend and assist all other members against all aggressors.<sup>1</sup> The frank-pledge of the feudal societies, which became civic in the tithing of the early English municipalities, took this form in the charters of France, which also extended to Italy, Spain, Germany, in fact to Europe.<sup>2</sup>

The French corporations, as distinguished from the communes, differed from the English guild, and from the German companies. The idea sprang from the Roman *collegium*, and the institutions themselves date from the time of Charlemagne,<sup>3</sup> according to some authorities,—certainly they are of ancient date. Saint Louis investigated them, and reformed their administration about the year 1258. There were six of the *Corps Marchands* at Paris, and one of them (the Company of Goldsmiths), from the year 1260, had the important privilege of keeping an especial seal in the corporate house. It would seem from the mention of this one instance (I find no other) that the corporate function embodied in the seal was more jealously guarded in France than it was in England.

After Louis XIV., all the Associations were divided into two classes,—the first consisting of the six companies of Paris merchants; and the second, of the *Communautés des Arts et Métiers*.<sup>4</sup> These latter numbered one hundred and twenty at Paris in 1691. According to De Haillan, the municipalities of Paris and of Lyons supervised these bodies after the year 1190.

<sup>1</sup> Prescott: Robertson's Charles V., i. 251; following D'Achery: *Spicilegium*.

<sup>2</sup> Ibid. i. 38.

<sup>3</sup> Introduction à Historique des Arts et Métiers.

<sup>4</sup> De La Farelle: *Progrès Social*, ii. 218.

These bodies were divided into three classes, or very distinct orders : 1. The Masters, who in the six companies take the usual qualification of merchants ; 2. The Companions ; 3. The Apprentices. The Masters in the *communautes* of Paris were the artisans, workmen, or merchants, who had first served an apprenticeship ; second, had served as companions the time prescribed by statute ; third, had made a *chef d'œuvre*, or only an "experience." This latter was a species of inferior masterpiece. Apprentices were lodged in the houses of the masters, and treated like children. The whole system was minutely arranged, and there were many distinct classifications which separated masters and companions. The system of administration was by elective officers, and corresponded to that of the guilds.

The Communes of Lombardy attained such importance that Frederic Barbarossa was obliged to bring the imperial power against them, in order to establish the unity of his government. The original *status* of these interesting communities appears to have been a compromise of feudal and municipal relations. It was not until after 1173, when they made an oath of confederation against Frederic, that they omitted the customary clause, " saving our allegiance to the emperor." Previous to this, when an emperor was in Italy, they were obliged to give him quarters, called *mansionaticum*, and food, called *fodereum*. They repaired roads and bridges, and ranged themselves under the imperial banner as vassals.<sup>1</sup>

Interesting  
Lombard  
Communes.

The Lombards did not make land a condition of citizenship, and it was never a qualification for office.

<sup>1</sup> Testa : *Communes of Lombardy*, p. 98.

The privilege of the citizen was a boon granted by the commune to its aristocracy. Every citizen of eighteen was admitted to the General Council, but handicrafts and low trades took no part in the public business. Every city was divided into *sestieri*, or tribes, and the government consisted of three councils,—the General, the Special, the Secret. They had classified magistrates, consuls, praetors, or syndics. All were liable to bear arms from the age of eighteen to seventy. But we see the spirit of aristocratic privilege symbolized in the horse. A common person was not allowed to rear or train a war-horse; this office was held to be honorable, and was assigned to men of noble birth. The belt of knighthood was conferred on these idealized grooms by the consul, or some distinguished personage, as an especial reward for military valor. These facts are cited by Testa, and are interesting, for they reveal the Teutonic spirit of local independence in its far Southern confines. The municipality under these conditions was finally crushed by imperialism, or it was strangled by the domestic struggles of aristocratic parties. The healthy inflow of common life, which the English town and frith-guilds admitted, was lacking in these Latin countries.

On the Continent there was not the same intimate relation between the institutions of Person and Property that England always maintained. Continental Corporations differ from English.

The German and French aristocracies were not social in the same degree that obtained in England; consequently all classes consolidated their privileges into a more strictly personal right and power. Practically, a noble could not long exist in England without property and the social foundation it

maintained under him. This principle afforded constant opportunity for the interchange of classes and for elastic relations between them. The English Corporation in its municipal form was a sure field for this social development. There was not an absolute difference between the English and the German institutions, but the tendency varied, and the historic results were modified accordingly.

After the free city was developed in Germany there came a development of corporations, chiefly from the artisan class. The oldest of these guilds<sup>1</sup> dates from 1149;<sup>2</sup> toward the end of the twelfth century they were rapidly formed, and played

German  
Artisan  
Corpora-  
tion.

a great part in the life of the centuries immediately following. Like the English guilds, they had manifold functions,<sup>3</sup>— religious, social, military, and economic; but, as before remarked, their tendency differed according to the character of the people. They were not necessarily non-political, but the genius of sovereignty,<sup>4</sup> so conspicuous in all the English mediæval associations, did not run in their blood. Some acquired much political power; the weavers of Cologne were especially strong in this direction, and the story runs that they said, "We

<sup>1</sup> Stieda, a late writer on guilds ("Annals of National Economy and Political Science," p. 3), holds that the German were not derived from the Roman colleges. "The German were strictly commercial, the Roman ones were not."

<sup>2</sup> Gierke : History of Corporation Law, p. 388.

<sup>3</sup> Although Stieda holds the guilds to be strictly commercial, he says (p. 11) : "The guilds during the thirteenth century received partial judicial authority, though in all cases of importance, even the choice of masters, they were obliged to defer to the town authorities; and whenever they conflicted, the guilds had to yield."

<sup>4</sup> "The investment of the income of the working-men by the judge was not uncommon at this time." — *Stieda's Annals*, p. 41.

care more for our corporation than for ourselves."<sup>1</sup> The relation of these guilds, or artisan corporations, to the municipality<sup>2</sup> was much like the English, and was two-fold. They were independent bodies, and they were also members or functionaries of the city government.<sup>3</sup> But there is no Whittington and his cat associated with the German mayoralty; their artists would hardly, like Hogarth, depict the way of the good apprentice with regular steps to the Lord Mayor's curule seat.

The religious functions of the Corporation were first set aside and developed into institutions, which were confined to that sphere of life. The political and social or commercial functions were more closely allied, and the term of development was much longer. At this day the municipality, or body of municipalities, called London is not fully separated from private corporations, and some of its

Separation of Corporate Functions.

<sup>1</sup> "It is not strange that the weavers' guild took an important position, and that they first gained independence; for besides being of large numbers their profession earliest threw off the fetters of feudal bondage. Then they were usually married, and thus resembled our modern working class. These facts explain why more documents relating to the weavers' trade come to us from the 14th century." — *Schanz's History of German Trade Guilds in the Middle Ages*, p. 45.

<sup>2</sup> "The choice of the masters belonged certainly to the magistrates, but, nevertheless, the wonderful permission which allowed the choice to the workmen themselves existed. The masters of the guild in Regensburg, in 1244, chose a master from their midst. The same occurred in Cologne." — *Stieda's Annals of National Economy and Political Science*, p. 126.

<sup>3</sup> "There appears to have been an irregular but positive influence exercised by the artisan associations upon the municipality. As late as 1693, the Senate of Hamburg passed a decree; but the *ampters*, who are the head of the several companies as smiths, tailors, barbers, shoemakers, being stirred up by the Meyer, remonstrated. The Senate at first refused to hear them, but the *ampters* burst into the Senate while in session, and it finally repealed the decree." — *Kemble's State Papers*, p. 137.

affairs are treated in Parliament like the business of any private company. The East India Company began as a corporation, but in the course of its history wielded all the powers of a government. London began as a government with socio-political functions, and will probably end as a simple municipality, one of the manifold parts of a modern State.

The idea of the Corporation as one of the organs of sovereignty, and again as an association of individuals embodied for distinct purposes, with no sovereign functions, but harmonizing fully with the *ultra vires* Limit. sovereign powers of the State, is a twofold development most characteristic of modern civilization. It would at first sight appear to be self-evident that a railway-carriage company should confine themselves to that business and no other; yet, in a notable case, three judges and Mr. Justice Blackburn were on one side, while three judges and the House of Lords took the view exactly opposed. One held that "the common-law incidents of a corporation adhere, unless expressly removed by the legislature;" and the other held that "the contract could not have been ratified by the unanimous assent of the whole corporation." This is in substance the modern doctrine of *ultra vires*, — a wise invention of the jurists to limit the powers of an incorporated body. In all associated bodies there is latent sovereignty, and governments in every age have watched carefully lest this slumbering force should manifest itself to interfere with their political prerogatives. The early corporation constantly tended to shoot out "suckers" of sovereignty, and they were pruned away only by long ages of social and political development. The delicate application of the limiting doctrine of *ultra vires* instanced above, shows that the his-

toric evolution of the corporation is a mysterious process. An individual can make a contract at will if he violate no law. But a corporation, while it has received powers from the State, also surrenders to its progenitor some powers which the individual naturally holds.<sup>1</sup> Even the unanimous consent of the shareholders to a misapplication of capital under a charter, would not make that act legal. The present Livery Companies of London are the survivors of the old guilds. The powers which in America are given to the Corporation for commercial purposes, in England are assigned to the Joint-Stock Company. The Corporation had gained a distinct personality, which absorbed the individuality of its members. One body stood before the State with important privileges derived from its powers of association. The joint-stock company grew out of partnerships, and in 1855 it gained the privilege of releasing its members from personal responsibility. The liability of persons under these associations was limited to the amount of their shares; and the word "limited" after the name of the company marked the privilege.

I have indicated some of the features which the Corporation derived from the social institution of the Person.

The person was an individual constituting a social centre, a fulcrum on which the State could rest the lever of its sovereignty and move the masses of people below these larger individuals. Without doubt the person was the descendant of the Aryan house-father,<sup>2</sup> the head of the clan or other group which the increasing force of civilization had gathered under his influence. But he was a social and not a

<sup>1</sup> Brice : Ultra Vires (Green's Am. ed.) pp. 31, 32.

<sup>2</sup> Coulanges : La Cité Antique, p. 40.

lineal descendant; his functions were humane and not kindred. The comparison also shows important differences. The house-father and the head of the gentile group had certain important religious functions. The *sacra* and their administration shed a certain mystic fragrance about the head of the gentile group, which the modern head of the family,—who is, so to speak, only a stepson of the Aryan father,—could not fully inherit. Yet this mystic force inherent in a community,—a group inspired by a common religion and nourished by a common meal,<sup>1</sup>—long tended toward all social organizations, and endowed them with powers which have much perplexed lawyers and statesmen. The old English Chief-Baron Manwood builded wiser than he knew, when he demonstrated that corporations have no soul. As he laid down, none can create souls but God; corporations are created by the king; therefore a corporation can have no soul. The instinct of the jurist was wiser than his logic. In our view, the ruler can register and formulate; he cannot create. The creative powers of the king have gone with the old dogma of the divine right into the night of the past. The powers which civilization has engendered are reduced to order and legitimated by the sovereign power of the State; their vitality and spring of life come from the power which is anterior to and above the head of the State. Nevertheless, the old lawyer was right in his analysis of the essential nature of a corporation. The religious element, which the gentile development had carried along into all its various organizations and social customs, had been claimed and absorbed by the greater power of the Christian Church. The Roman Church took constant care of its divine power, just as the Roman

<sup>1</sup> Hearn : Aryan Household, p. 329.

State had jealously guarded its sovereign power. That spirit of life, that essence of religion and fellowship, which all the old organizations affected more or less, was gradually excluded from the Corporation, whether municipal or commercial, and left it — just as the common phrase now runs — "without a soul."

I have referred to the English joint-stock company, which has developed so fully since 1855. In the United States of America, we had availed ourselves of development the latent social and industrial powers of the in America. Corporation much earlier. Tocqueville was Early de- much impressed by the great results which the Americans achieved through their ready and easy modes of associating together for any desired enterprise. This social confidence, proceeding from a people bred to trust in themselves and in each other, is doubtless the latest and most elastic result of civilization. It has enabled a new country, sparse in population and poor in capital, to aggregate its forces, and to acquire the advantages enjoyed by old and rich communities. The American lawyers were very early obliged to work out the principles of the English common law, and apply them to private as distinguished from municipal or political corporations in this country. Beside corporations "aggregate" and "sole," they freely used the *quasi* corporation, defined by Chief-Justice Parker as a thing of limited powers, "but restrained from a general use of the authority which belongs to these metaphysical persons by the common law."<sup>1</sup>

This mystic personage embodied in the common seal, the *corpus* of the Romans, underlies all the forms of this institution. As Marshall, in the famous Dartmouth

<sup>1</sup> Angell and Ames : On Corporations, p. 16.

College case, defines it: "The great object of an incorporation is to bestow the character and properties of individuality on a collective and changing body of men." The right of "succession" which this body derives from the State is its most valuable function, and in that respect places it above the Person, whose functions cease with the life of the individual who bears them. The old Aryan succession by kin has been assumed by the State. The gentile head entered at once into possession of the property of the household. Now, the State administers on the effects of every individual citizen. The Corporation is an immortal head, and continues its rights of property though every individual member may die, or be changed at will.

The Corporation also has powers and capabilities which we shall touch upon when we treat of communities. In this sketch I have attempted to trace it historically; and have tried in some measure, for the task is not easy in the present state of our knowledge, to separate its social, its municipal, and its sovereign faculties. The king or the sovereign, the greatest of corporations, has his functions now pretty well defined and limited in the more advanced nations and more civilized communities. The municipality also, though its social, commercial, and industrial functions still cling to it in its greatest and most shining example,—the city of London,—has generally become a definite and well-ordered political mechanism in the easy working of the modern State. The political office of the municipality in the development of freedom and the due privilege of the citizen has been most important, and deserves especial notice from the philosophical observer of his-

tory. It is the social offices of the Corporation which must chiefly engage our attention in treating this fruitful and interesting province of the history of mankind. The principle of aristocracy among men,—the selection by blood and kin, or by native force and manifest excellence,—through which leaders were differentiated and given the control of gentile destiny, was a tremendous power evolved for the good of the human race. This principle of chieftainship and leadership, birth-right and man-right, became in the more advanced Greek and Roman societies a social force which could be transmitted into the various organs of the rising city and State. It was not perfected in those antique States, but was ready to the free and more powerful individual hands of the Germanic races. This free social process contained more than would appear superficially; and the term "citizen" did not fully embody it, inasmuch as the process is even more social than political: therefore I have called it the development of the Person,—the somebody of modern times as distinguished from the everybody and nobody of all times. This process is not peculiar to any nation, or to any kind of government; it goes forward with the main current of civilization, and in so far as possible assimilates the lower races to itself, or they drop out and leave their ground to the unifying power of this modern civilization.

After the evolution of the Person, as distinguished from the aristocrat on one side and the polycrat on the other, another and more highly developed social organ became necessary. The Person was a social ganglion, into which society could concentrate its vital forces and through which it could put forth its energies. But it was limited by the short life, by the weak and defective

faculties, of the individual man. The power of association which had grown up in the Aryan households, nourished not only by kinship and property, but also by adoption, — the inclusion of new members bringing new life and forces, — was incorporated into the *collegium*, the *corpus*, the guild, the fraternity.

Here was an aristocracy made easy. Neither kinship nor wealth, neither blood nor inheritance, could make and preserve a family as a social institution. The Aryan household, the clan, had surrendered some of its most powerful functions

Socially the equivalent of an Aristocracy.

to the State and the Church. What there was left of the institution, the aristocracy of family, could not wholly embody and perpetuate the social faculties needed to carry forward the multiplying businesses of life. The *collegæ*, the *sodales*, the guild brethren, desired to aggregate and enlarge their privilege; they would gain the advantages which aristocracies possessed over common men, both for themselves and their children. The count and his companions produced similar social results, through the very different process of conquest, benefice, and commendation. The one developed a warlike equivalent of the Corporation into the feudal land-tenure, especially as we see it in England;<sup>1</sup> the other developed the peace corporation into municipal security, into the privileges of trade and craft, into religious association and the industrial life of monasteries. This incorporation of social privilege was not for humanity at large, any more than the good of mankind was the issue when the Ger-

1 "The most elementary conceptions of real property carry us back to the relations of lord and vassal, and cannot be understood without reference to them. Ownership of land in the full sense of the phrase is unknown to the law of England." — *Encyclopædia Britannica*, — Art. "Feudalism."

man counts rode over the Alps on their expeditions of conquest and plunder. This idea of social good was too high and attenuated for the heavy atmosphere of that time. Not even the Christian Church, the greatest consolidated corporation for social purposes the world has ever seen, had then risen to the height of a free and unselfish endeavor for society as a whole. The Christian principle was at work, and slowly manifesting itself in a feeble way; but the great features of the Christian civilization were as yet hardly formed. They are not fully developed after all these centuries; most branches of the Christian Church still work for their own members, and administer their essential advantages through a close corporation.

I would not belittle the prerogative of war, nor join A chief the silly cry which would make it a mere terror Agent of destructive to humanity and civilization. War Peace. has its own office, has played magnificent parts in the drama of history, and will continue its own development for generations to come. Yet it is manifest to its most enthusiastic votary that it has the losing hand in the game of civilization, and diminishes in relative importance with every turn in industrial and social development. Higher industrialism makes war less possible, both by reason of the enormous interests endangered, and by reason of the immense armor to be carried by war in the least campaign,—a weight which industrial development has imposed upon it. Therefore the main improvement and the higher life of mankind in the future must come through peace and the arts of peace.

In this evolution, in the steady growth and diffusion of peaceful arts and peaceful aspirations among men, the Corporation has been a mighty instrument. It will

continue the same functions, so long as the present tendencies of civilization may continue to direct the destinies of man. The Corporation is the best example of the principle laid down as the basis of our discussion. In marshalling the social categories, as I have termed them, — capital, labor, and capitalizing, — the Corporation must inevitably play a very important part. It is not usually — as would appear at first sight, and as many people think — a capitalist. Its shareholders ~~Is not a~~ are capitalists, and the institution itself becomes ~~Capitalist~~ powerful through the aggregation of these atoms of capital. But the chief office of the Corporation is, through its directors and executive agents, in the manipulation of this capital on the one hand and the employment of labor on the other. Neither the *corpus* nor the agents are mere sieves through which labor and capital are sifted, and the better grains selfishly retained. I trust that I shall make it clear in another connection, that labor in the civilized sense cannot move without capital, cannot put forth effort without the mediate office of capitalizing, any more than the lungs can move without air. The Corporation is to the body social as the stomach is to our natural body; there is food and vital force on the one side of the organ, there is blood and renewed vital force on the other. The office of the Corporation, its capitalizing function, is not mechanical; it is vital. It does not simply hire laborers, and sell their finished products; it transmutes the raw labor and the raw capital into a new social product, which again becomes capital, and passes on into further social evolution.

In this process the Corporation becomes not a mere machine operated by the owners, like a steam-engine which I buy and operate at pleasure; it is a social agent

The Servant and not the Master of Society. of the most complex nature, and its action in capitalizing puts it into sympathy with every throb of society about it. It is true that it has no soul, as the old jurist clearly divined : that is its weakness as an individual power, and its strength as an organ in the social system. Corporations endowed with the material powers of this century, and animated by the souls of Napoleons, would be fearful creatures. The soul, or moving spirit, of the Corporation must be social, using the individual motives of self-interest and ambition, just as the human system uses appetites, to forward its higher energies. Thus the institution has a mission in our life as large as the monastic corporation had in the Middle Ages ; it is invested with a divine life, though its end may not be worship, and its business may not be religious.

We must consider more closely the social relations of corporations to their shareholders and to capital. In no feature is modern society so little understood as in this matter of the distribution of capital. Even in the most wealthy communities the rich are few, and the relative sum of their capitals. Distributing Agents, not Monopolies. When compared with the aggregate amounts owned by the middle classes, as they are termed, the petty capitalists. These capitals of the rich are frequently moved in the commercial operations of the day ; they attract the notice of everybody, especially of the advocates of separate labor interests, and thus their relative importance is much overrated. It is not the weight of these sums which creates this artificial impression : it is the momentum and velocity with which they fly through the channels of trade and manufacture that impresses the imagination. These sums of corporate capital,

so easy of access, are very important instruments in commerce and manufactures, in the operations of labor, and, in short, in the movement of capitalizing. In their movement they vitalize the whole body, commercial and social; but in importance relative to the mass of capital which belongs to society as a whole, they are as the air breathed by the animal kingdom to the whole atmosphere which envelopes the earth. The richest corporations in the United States, after the railway corporations, are the savings banks, the capital of which is divided in small sums, and very widely distributed. The depositors in these institutions are generally persons of narrow means, together with artisans and laborers.

The greatest financial engine in the United States, the greatest capitalizer in its relation to other capitals and systems of capital, is the association of banks in the city of New York. These banks are partly National and partly State, and correspond in their individual character to the joint-stock banks of London. But their millions of capital are broken into paltry sums, and owned by multitudes of people scattered over the whole United States. For example, the aggregate capital of the State and National Banks of New York city — \$67,000,000 — is distributed in shares averaging seventy-five dollars, among 22,804 shareholders. The average number of shares owned by each person is 47.07, equal in value to \$3,530.<sup>1</sup> Often a shareholder representing \$10,000 is the largest owner in one bank; and it will be seen from the low average that the stock must be generally broken into small sums. The same principle applies to

<sup>1</sup> These figures are used by the Manager of the New York Clearing House in his report, and are believed to be correct. See also J. J. Knox's late Reports.

other countries, though it is more highly developed in our active American life. It is also a growing principle, tending to economize capital more and more, while it affords better opportunities to the petty capitalist to gain the advantages of the quicker movement and greater volume of trade and manufactures attainable through incorporated effort.

We shall be met here by the assertion that corporations are becoming monopolies, and are absorbing the wealth of the community, while they concentrate their powers in a few individual hands. This is as near the truth as most hasty social generalizations are, and no nearer. Those who make this statement could hardly have a better illustration of their dogma than the rapid consolidation of railways in the United States, which has occurred in the last twenty-five years, would appear to be, if we regarded it only on the surface. Indeed, this movement of wealth has been almost universally characterized by these social pessimists as wholly corrupt, and fraught with every ill to society.

But what are the facts? (1) The owners of the railways, the individual shareholders, were benefited by the higher evolution and better improvement of their property. One of the chief complaints in the outburst of "granger" frenzy which prevailed in this country not long ago, was that the owners of railway lines had gained too much by "watered" stocks, — that is, the increase of shares made in combining the separate lines. (2) The community has benefited by the quicker and cheaper service it has obtained; which in turn has improved the values of all property and the opportunities of all individual members of society, poor as well as rich.

The annual food for the consumption of a laboring man, a whole year's subsistence, is now transported by these great incorporated railway systems about fifteen hundred miles for the price of one or two days' rough labor by an able-bodied man in the Eastern States. The ratio will vary somewhat with the fluctuating rates of labor and freight, but the statement in substance holds good in any of these years.

Before the invention of railways, where there was no water communication, a bushel of wheat consumed its total value in a land-carriage of two hundred miles. When we consider the tremendous social changes which these simple facts involve,<sup>1</sup> the enormous social force evolved by this capitalizing of labor and capital into railways, then the further capitalizing of one railway into another, the mind falters before these creations of men working together in orderly social development. It is in essence a movement of labor quite as much as of capital. A man standing in a New England State, by one or two days' work with his shovel, brings to his own door a year's subsistence grown half a continent away.<sup>2</sup> Throw-ing out of the estimate the labor employed in the trans-  
portation, there is in the final goal of the transportation, in the end which it reaches, one of the greatest benefits to labor that it has ever secured unto itself since the days when "Adam delved and Eve span."

<sup>1</sup> The transportation of freight in the United States, costing 2.153 cents per ton per mile in 1866, was reduced to .866 cent in 1880, — a reduction of 60 per cent.

<sup>2</sup> "Five hundred pounds of meat and flour — a quarter of a ton — constitutes a fair allowance of the product of the Western prairie for a year's subsistence of a workman of Massachusetts; and this quantity he (C. Vanderbilt) moved a thousand miles for a dollar and a quar-  
ter, and sometimes for less." — *Atkinson's Labor and Capital Allies*, p. 32.

Intelligent people have ceased to prate of the curse of labor *qua* labor. The peculiar hardship of the laborer under all circumstances doubtless is a certain fixedness and immovability as compared with capital, which in its quick form is ever fluid and portable. But what better instrument can he have against this necessary disadvantage than the free communication I mobility to have described? The privilege of travel and Labor. emigration for himself has long been acknowledged; but that has been regarded by some as a doubtful boon, in that it tends to concentrate laborers anew wherever capital may draw them, to create a competition among themselves. No such partial defect can be urged against this later improvement which I have cited,—the free and cheap movement of freight. By this instrument the laborer brings the solid products of capital to himself, wherever he may be, at a cost which cannot hinder any thrifty man from acquiring capital while consuming them.

The person who manipulates the land,—the farmer, the semi-capitalist and semi-laborer, the most frequent of all capitalizers,—is equally benefited by this evolution of transportation. His bushel of wheat, representing all the economic forces, natural product of soil, air, and sky, capital product in commodities consumed, labor product in toil of cultivation, mind product in the capitalizing process,—this child of Nature and civilized labor, which languished and died in two hundred miles journey, can now travel around the world without special diminution of bulk and value.

The first movement in bringing out new agencies of civilization is generally toward monopoly; we cannot see any other possible means of development. This

principle is universally recognized in the patent-laws of civilized countries. The secondary movement of the same agencies is toward diffusion, and the comprehension of a wide circle of persons in the enjoyment of the new results produced by these agencies. Banking was a narrow monopoly when first invented, but it now extends its blessings to every class, and brings the lowest members of society into the partial enjoyment of capital. Five cents is a small sum of money in itself, but it enfolds all the potentiality of capital: the germ of Rothschild's power abides with the person who husbands it in bank.

Economic  
Monopoly  
ends in  
better dis-  
tribution.

It is inevitable that, in a social change of such magnitude, the persons who effect it should be paid too much for their services. The railway magnates — "kings" as they are grotesquely named — have possibly been overpaid for the very important service which they render society at this moment. So have successful patentees profited very much in some few instances. That social irregularity will soon correct itself, and the morbid accretions therefrom will be distributed anew by the natural working of the social system. It is a part of the necessary price which we must pay for a coveted improvement. The same principle has prevailed under all social systems. Rudolf of Habsburg profited largely for himself and his descendants when he brought a tolerable Austrian order out of the mediæval chaos.

Society will change its forms more or less in the great peaceful development upon which it has fairly entered. The new forms to be established must strictly accord with the principles which we have cited in this chapter. There can be no orderly society without some kind of nobility, and I have shown

Future of  
the Corpo-  
ration.

the most elastic and easily changed aristocracy to be the leadership of persons. This nobility must be continued, for the principle of hereditary descent was long ago discarded in some communities, and found insufficient in all worthy of the name of civilization; hence our aristocracy of persons must be supplemented by another institution having within itself that potential perpetuity, "succession." The Corporation thus takes into itself the powers engendered by solid and continuous capital on the one hand, and the vital strength derived from the free entry of new and warm-blooded persons on the other. I now speak of the latest form of the Corporation, after it be freed from the sovereign, the religious, the municipal functions, and in this form becomes the simple agent of industrial, commercial, and social life.

The casual observer must see in this an institution of enormous powers, capable of the greatest good or harm to society according as it is wisely or foolishly administered. The doctrine of *ultra vires*, which the jurists have applied to the legal bearings of the Corporation, will have to be rendered into social form, and brought to the administration of these noble, almost kingly, functions. The powers beyond,—the extra functions which the master of a corporation may and in some cases will assume to himself,—become matter of grave social concern. If the railway or other great magnates transcend their natural powers, already sufficiently large, they will be held to strict account at the bar of social justice. But this consideration of the Corporation belongs rather to another section of our discussion, and I shall refer to it again.

## **THE GUILD.**



### III.

#### THE GUILD.

THE Corporation, as we have described it, manifested itself in two forms, or rather tendencies, of the civilization of its time. One of these contained sovereignty, and sooner or later became a municipality, an organ of the State, a necessary political function in all well ordered communities.

In the other, the *corpus* gradually dropped the political tendency and put on the body of a larger person. It first bound individuals together, and then in the course of its history created a consolidated agency able to prosecute the larger industrial and commercial business of our time. The associations which gradually gave themselves more and more to the offices of religion lie outside our province, and I do not propose to consider them except in cases where they show industrial, or large and purely social, characteristics.

The Guild partook of all the characteristics I have named, but in different degrees. It played a most important part in the life of Europe, especially in the period from the eighth to the thirteenth century. The separation between these several corporate functions — the political, the religious, the social, the industrial elements — was not sharply defined. We are compelled to state it in this manner to make the inherent distinction clear. Especially in England, as I have stated, all the societies had a political tendency, and they affiliated with the

municipality much more readily than they did upon the Continent.

In this class of societies the basis was in fellowship, in Guild based mutual protection. They did not necessarily on Fellow- assume either political or religious functions, ship.

though these often appeared as accessories to the social life of the body. This fellowship was embodied in the word "guild," or "gild," which means according to some authorities a payment, a condition of membership. "Guild" is occasionally used in some of the Sagas to signify a feast; but this is a secondary meaning.<sup>1</sup> Brentano<sup>2</sup> classifies these societies into religious (or social) guilds, town-guilds, or guild-merchants, and lastly craft-guilds. It is the social features of all the guilds, including the craft-guilds, which I propose to treat in this chapter. He does not define the Guild, as I have done, following the deeper analysis of Dr. Sullivan. The German doctor says it originated in the Germanic and Scandinavian guild, "which meant originally the sacrificial meal made up of the common contributions; then a sacrificial banquet in general; and lastly a society."<sup>3</sup> The significance of this difference will appear farther on.

Brentano<sup>4</sup> endeavors to found the origin of the Guild in the family, though this brings him into conflict with Wilda and Hartwig,<sup>5</sup> his chief authorities. I think he would have made his task more simple if he had regarded the institution from an archaic stand-point, in-

<sup>1</sup> Sullivan : O'Curry's Irish, i., ccxv.

<sup>2</sup> "It is doubtful if the guild-laws existed everywhere in the thirteenth century. It is not positively asserted in all the documents, and I doubt if Brentano is right when he asserts this in his review of Stahl."—*Stieda's Annals*, p. 85.

<sup>3</sup> Brentano : On Guilds, p. 4.     <sup>4</sup> Ibid. p. 16.     <sup>5</sup> Ibid. p. 4.

stead of the modern view which he takes. There was no such thing as a family, in our conception of it, existing in those very remote times when the Guild took its form from customs and usages of long standing. The household gave a basis for the Guild undoubtedly ; but it was the organization of the household which the guild-brethren adopted, and not the affections of kindred. These latter were a minor function in the half-political and military, half-domestic and social, organism of the Aryan household ; and finally these relations of kinship grew into that higher and finer organism,— the family of the Christian civilization. The primary object of the Associates was not to put forth love and kindly feeling, but to obtain mutual support and protection from oppressors. The privileges vested in the aristocracy bore heavily on the classes beneath, and they combined both to resist the oppressor and to gain points of vantage in their turn.

Undoubtedly the *collegia* and *sodales* — Roman or Romanized institutions — founded themselves on the common meal, which was so sacred and significant a symbol in all the relations of the Aryan household.<sup>1</sup> The functions of worship which the house-father (the Roman gentile head) could alone administer, the *sacra*, had passed into the keeping of priest and church. When the *sodales* were instituted, they took to themselves the social power, perhaps we should say the socio-religious sympathy, of the common meal. This is an indestructible force, and exists to-day in the sacred domestic meal of the family, even though the

<sup>1</sup> "These old customs give us an idea of the strict bond which united the members of a city. Human association was a religion ; its symbol was a common repast." — Coulanges' *La Citté Antique*, p. 186.

strictly formal religious rites of the occasion have gradually become infrequent. The feeling which prompted these rites has mingled in the wider religious feeling which animates modern life in all its forms ; these forms, if secular, are still charged by the spirit of religion, by the spirit of dependence upon God.

This sympathetic bond of association was a later development, after the Aryan institution had been long modified by Roman custom and civic life ; the roots of the institution went back much farther into a simpler form of life. As Dr. Sullivan shows, the Guild as we know it is a civic affair, growing out of the assembling of artisans and traders in communities ; but it is equally clear that there was a long antecedent process of development, before the customs could be established on which the guild sentiment could plant itself and flourish. In this view of the origin of this sort of association, the meaning of the word itself becomes important. It was a payment which was symbolized in "guild," as the learned exponent of the Brehons clearly shows. And he makes it clear<sup>1</sup> that the link of etymology, which the Saxon and Teutonic words drop in their passage, is supplied by the Irish words *gial* ("a pledge or security"), *gialda* ("to be a pledge or security"), which bring over the earlier customs that pre-

The *Aire* vailed prior to the Guild as we know it: I mean an early the passage of the early *Aire* partnership,<sup>2</sup> by Guild. which the freemen<sup>3</sup> first raised themselves into a position where they could get some of the advan-

<sup>1</sup> Sullivan : O'Curry's Irish, i., ccxvi.

<sup>2</sup> *Ante*, p. 68.

<sup>3</sup> "The guilds take their origin between bondage and freedom."  
— *Stieda's Annals*, p. 6.

tages of chiefs or lords, into the later association of the Guild. Four freemen, some of whom might be free "foreigners" with no tribal home, united closely for mutual support, and became each responsible for the dues of the other to society and the tribal State. Through this union one became an *Aire*, or had the privileges of a lord. They assumed these responsibilities solemnly in the presence of an *Aire*, and sometimes it is supposed with religious ceremonies. If one of the partners was remiss in keeping his fences,—for these practices obtained in agricultural or semi-pastoral times,—then his co-partners levied "distress" on him through the authority of an *Aire*, until he either fully met his duties or gave up land in compensation. Here the Irish language supplies the etymological link which connects the primitive institution (a partnership) with the mediæval institution,—an association, a guild. The word *congilda*, one of the names of these partnerships, preserves not merely the collective pledge given,—as we have it in the Saxon guild, a payment,—but it also preserves the mode in which the collateral security was offered and taken in this matter of co-grazing,—one of the chief offices of the primitive partnership. It is obvious that a custom of this character would take a strong hold upon society, and leave permanent marks of its working. These marks are in the social dues (guild-payments) as distinguished from political dues (State taxes). This bond between the *Aire* members was not like the frank-pledge (a police obligation), nor like any of the numerous fines which correspond to our modern taxes; it was not an obligation <sup>Guild obligation</sup> not between the members of the State, rude as <sup>like a tax.</sup> it might be; it was not the responsibility of citizens at

all ;—it was the obligation of communicants, of dwellers together, to each other.<sup>1</sup> The household, not the family in our domestic sense, but the organization which was natural by kindred or artificial by adoption, had begun to disintegrate and scatter its germs among the members of the clan, the growing tribe, the rude nation. Men found that beside the military dependence and connection, beside the lord's power and the irregular conditions of vassalage, they could promote a mutual dependence on each other for definite purposes and ends.

These rights of co-grazing, and their corresponding duties, must have been a very early form of social development. For, as previously shown, cattle, next to human chattels (which I throw out of the discussion), was the early form of desirable property, the means by which a man could lift himself above the soil, could give that soil a new value, and could furnish himself with those movables which might make life easy and enjoyable. Of course there was the larger current of social progress through fief and *feudum*, through count and county, through burghers, craftsmen, and civic municipalities, which has chiefly filled the pages of history. But I speak now of the earlier phases of life, when the customs were formed in simple communities, which afterward gave direction to civic institutions and fixed laws. It was in that early life of the Germanic, the Scandinavian races, and that portion of

<sup>1</sup> "In the ninth century, by a happy combination of the Christian love-feast (*agape*) with the guild of the ancient Germans, the rustics, being grouped by a tie of mutual assurance to resist by force the pillages of the under-vassals, had formed associations powerful enough to encounter the proscription of Charlemagne and his successors, usefully seconded by the ecclesiastical censures." — *Bonnamère, Histoire des Paysans*, i. 85.

the Celtic race which has not been thoroughly Latinized, that a great body of freemen was produced who have made the civilization of Northern and Central Europe, and who dominate the destinies of the Western world to-day. They were led by aristocracies, but often their members sooner or later became the aristocracy. Sometimes ennobled, but oftener mere burghers; sometimes merchants, and again artisans leaving their tools to seize the sword,—these sturdy yeomen made the essential life of modern times. Before this type of character was formed, it was necessary that men should learn to co-operate in peace as well as in war.<sup>1</sup> They had to learn mutual dependence, with that sense of obligation and duty which comes from doing as well as receiving.

In the *Aire* partnership and similar modes of mutual assistance, for there must have been many before the orderly Teutonic cities were formed, the free-men stood together and rendered unto each other some of the offices which the modern complex State exacts from all alike. That this

Development of the Freeman gradually.

kind of association developed in the early times a strong spirit of independence, a virile spirit in the common man, appears from the positive condemnation which Aristotle visits upon them. He carefully enjoins upon rulers that they "suffer neither common banquets, nor education in common, nor anything else of the same kind." The outcome of this power of association he declared must be to create in the people "self-consciousness and mutual confidence."<sup>2</sup>

<sup>1</sup> "In 997 the *guild champêtre* reappeared, but this time for attack and not defence only, with a character of unity which will not be found again later in the numerous revolts of the peasants against their oppressors." — *Bonnemère, Histoire des Paysans*, i. 85.

<sup>2</sup> Aristotle : *Politics*, lib. v. ch. 2.

It is significant that the bond of this association was symbolized in a payment, a contribution free in essence, yet enforced by a strong obligation. For here we have the faint beginning of that honorable use of money which is one of the finest features of a civilization easily materialized, and tending toward a low and purely commercial view of money and capital. We say of a man who uses his goods in a grand and noble way, that he is chivalrous, partaking of the older feudal spirit, and not altogether hardened and crystallized by economic law. A man may be honest by the scales, just in his dealings and accounts, yet he may properly be held to be mean and sordid, a mere purveyor of society's taxes and not a user of society's goods. It is not enough to say of the generous exponent of economic forces, the person with large capacity for creating social vitality through the use of money, that he is chivalrous. Chivalry did not concern itself with the distribution of money or goods; its essential action was in personal service; as a government it dealt much in fines and compensations. But that was not the feature of feudal civilization which we characterize when we speak of chivalry; we mean the high sense of personal obligation bred out of a lofty individualism,—just as when we say "justice," we mean a settled sober obligation to law and adjudicated right, born out of the calm patriotism of the Roman citizen always subordinate to the State.

This attribute of the dignified person dates from beyond the time of chivalry; and it takes effect in the use of money, or of economic force, as well as of Money. in other social forces. But the tendency of modern life is to use money more and more as the exponent and convertible medium of other forces; hence

the sense of personal dignity is constantly brought into contact with money, the quick emblem of social power, and must express itself in the terms of money. Now this calls up two distinct and definite principles, or impelling causes, in the conduct and use of money. The first is easily comprehended by civilized persons, though quite beyond the reach of savages and barbarians, even though they inhabit civilized soil. It consists simply in paying one's debts. It has become, not the essence, but the equivalent of a physical law. The solid forms of the Roman *prætor* and the customary rights of the Germanic races, not to speak of other less prominent races, have made it easy for an honest and intelligent person to pay his taxes and discharge his debts. It is an inevitable law, almost physical in its working, which compels him. He no more thinks of it, or puts forth a moral purpose in the act, than when he lifts and plants his foot on the earth ; he does not will to walk, except unconsciously ; and gravitation, physical compulsion, does the rest.

The other principle which personal worth and power enforce is less easy in statement, and harder still in practice. It is the honorable use of money or worldly goods. The same man who can pay a debt cheerfully may be puzzled by the fee demanded by a waiter, or by any money-demand not made imperative by absolute custom and social prescriptive right. The debt of honor is beyond the reach of logic, and almost defies philosophy ; yet it is none the less powerful in its working, or less positive in its claims. The most cruel outgrowth of this principle (a morbid growth, reason holds it to be) is the social enforcement of gambling dues. Many families have been ruined by this distraintment, harder than "distress." Affectionate fathers have resolutely

sacrificed their homes; crimes without number have been committed to avoid this social default,—and yet probably a larger percentage of gambling debts, actually incurred, is collected and collectable to-day, than can be realized in the ordinary sum of commercial debts.

This sense of honorable obligation, as distinguished from the dues which the State might collect, must have been early developed, and rendered into an equivalent in capital or worldly goods. I therefore believe Dr. Sullivan to be correct in his analysis, when he lays the foundation of the Guild in a payment.<sup>1</sup> He differs from Mr. Furnivall, who follows Wedgwood, and makes the primary meaning of "guild" to be a feast and not a payment.<sup>2</sup> If Dr. Sullivan is wrong in his etymology, then we must hold the etymological evidence to be not decisive until light comes from some other historic source. There is no doubt that the feast began in common contributions, which were in one sense payments.<sup>3</sup> The common meal underlay the guild, and a common obligation underlay the meal.

It is this sort of association, outside the natural family and clan, outside the artificial family or household, which is the true progenitor of the social corporation of modern times. All clubs for social purposes have been very careful of their dues and payments,—careful to render the mutual obligation so far as possible social dues. into an exact equivalent in money. And this not from mere commercial instinct, not to answer the debit and credit rule, but to comprehend the larger principle I have stated; to keep the person pure and uncontaminated by any taint of forfeited social obligation.

<sup>1</sup> Sullivan : O'Curry's Irish, i., ccxvi.

<sup>2</sup> Brentano: On Guilds, xiii.

<sup>3</sup> Ibid. p. 4.

It is clear in all the authorities that the Guild was an association, and the progenitor of voluntary associations. Every interest was at times represented in this institution. All classes of society were sooner or later connected with these fraternities for mutual aid and support. There were guilds of serfs and peasants, of small proprietors, of artisans and craftsmen, of traders and master workmen, of burghers and patrician merchants. The early steps in their formation, or rather the links between the first associated partnerships which I have described, and the larger guild sodalities of the Teutonic nations are not at present visible. As Dr. Sullivan suggests, the rural beginnings would not make a place in history.<sup>1</sup> The rural artisans were mere retainers of the lords, and could not form a solid guild until after they had collected into towns. These towns were either under Roman government, or had felt the Roman influence in their social organization, and thus the civic institution of the Guild would form itself in the feudal time. For we must remember that though the Guild flourished most in the feudal days, its essential nature was not feudal; it did not accord with the relation of lord and vassal. We have seen that Charlemagne or his successors found the guilds, — especially the serf-guilds, which interfered most with seigniorial rights, — to be disturbing elements in the government of the empire, and they suppressed them.<sup>2</sup> In this movement against the peasant guilds, the State received powerful aid from the ecclesiastics.

The history of these associations in Northern France is very interesting, for the imperfect links between the

<sup>1</sup> Sullivan: O'Curry's Irish, i., ccxx.

<sup>2</sup> Bonnemère : *Histoire des Paysans*, p. 85.

rural and civic associations dimly appear in the struggles preceding the famous insurrection of the Jacquerie. The Norman blood mingled the Scandinavian with the Gallo-Roman stream, and the guild current worked itself out accordingly. In the ninth century we see these true guilds among the peasants, based on a common meal and bound by ceremonial oaths to mutual support. Later, about the year 997, the guild *cham-pêtre* reappears in sufficient strength to oppose its suzerains. The peasants formed a general combination, and called on those living in the cities to aid their revolt against the barons, and in some cases the bishops. But the civic associations had become strong enough to laugh at the encroachments of the nobility, and they refused<sup>1</sup> to join their efforts to the endeavors of their rural brethren. Thus a true popular revolution was prevented. The same result often, though not always, occurred in England,<sup>2</sup> when the burghers and craftsmen would hold to their own class privileges, and turn a deaf ear to the cry wailing up from the more numerous classes beneath.

As before said, the strength of the guild tie was also its weakness. The brethren stood together, but they It was ne- stood for each other against the whole, and cessarily sometimes they oppressed classes weaker than narrow. themselves. It could not have been otherwise in the rude society, in the inchoate social relations which existed in those times. I do not condemn the guild spirit,—it was a helpful and necessary process in a loose social and a feeble Christian system; but it is

<sup>1</sup> Bonnemère, p. 87 (citing from Dumoulin's *Histoire des Normans*, iv. 93).

<sup>2</sup> Stubbs : *Constitutional History*, iii. 590.

useless to claim for it virtues which society could not conceive of in those days. The Athenian coolly despised the barbarian and the barbarian's gods, including thereby all dwellers outside the charmed limits of Greece. We admire the Athenian, and gladly copy his finer qualities; but none the less do we hate his narrow exclusiveness. I trust that we shall show that the guilds succeeded, and left permanent monuments of their success, just in proportion as they incorporated a larger spirit into their caste system, and failed when they administered this system for the benefit of their own brethren, or for one class of society. The institution failed, just as clan life and the joint family failed; they were not large enough to admit society on the one side, and they were too large for the individual, the person, the citizen, on the other. All such half-civilized institutions have an attractive side. The Serbian community,<sup>1</sup> or joint family, would at first sight appear to be more humanlike than our individual system; yet it is passing away by contact with this latter. It cannot hold the young people.

I cannot agree with Brentano in his general estimate of the Guild and its relations to modern life. The Guild as an essential force, a compelling power over men and their families, has passed away. The State, the Protestant Church, that larger social force which Christianity has engendered, and which we call humanity and humanness,—all have taken such fractions out of every man's life, whether he be rich or poor, busy or idle, that there is no room for a guild of the mediæval type. The ample learning and patient investigation which Dr. Brentano brings to the subject, claim the gratitude of all in-

<sup>1</sup> Laveleye : *De La Propriété*, p. 218.

terested in it; and I shall freely use his essay, together with the researches of Toulmin Smith.

In the eleventh century<sup>1</sup> the process I have indicated had assumed definite form, both in England and upon the Continent. The barons had laid firm hold on the dwellers in the fields. The peasants, who had proved too stubborn for enfeoffment, had either been subjected, as in the Jacquerie of Normandy and other revolts too insignificant for historic record, or they had escaped into the growing towns,<sup>2</sup> and there maintained the personal rights<sup>3</sup> which their forefathers imbibed from the old *Aire* partnership.

In this period the earliest charters of the religious or social guilds appear in England. The customs and

In England "usages" had existed long before, but now the founded in institution has defined itself and shows a trustworthy record. At Abbotsbury and Exeter the eleventh century on old were two of the earliest of these chartered "usages." institutions, binding the brothers together in bonds of charitable sympathy, to sustain each other in sickness, to bury the dead, and to say masses for those who had left the Guild, but had passed into that larger company of brethren who could still be helped by the prayers of those remaining on earth. There was a yearly feast at Abbotsbury in honor of St. Peter their patron, and a common meal was served every day. The charitable spirit of the brethren toward the poor was manifested at this meal, for alms in the form of bread

<sup>1</sup> Stubbs: Constitutional History, i. 413. Stieda: Annals, p. 5.

<sup>2</sup> "I believe we should consider the movement from the country into the town at this time of great importance. We may discover a second lever of the growing trade in the right of emigration guaranteed in the statutes of the thirteenth century." — Stieda's Annals, p. 63.

<sup>3</sup> Stubbs: Constitutional History, iii. 597.

were then distributed. These were true religious or social guilds; and it is evident that they had many features in common with the monastic corporations, among which they exercised their lay functions. At Cambridge, another old charter preserves a guild similar to the above in these friendly offices, but which added to them another set of obligations. The brethren bound themselves not only to these religious and charitable duties, but to protect each other against criminal violence of every kind, and also against the evil acts of the brothers themselves. "If one misdo, let all bear it; let all share the same lot." The officers seemed to pass a preliminary judgment upon their offending brother, and if they approved his course, made it "justifiable;" then the association made common cause with him, and assumed all the consequences of his act. Otherwise, he was expelled from the society. This was the substantial basis of a frith-guild; for it embodied the frank-pledge, the virtual tie which bound all society together in the periods just antecedent to these charters. This was a political or a municipal tendency; and where it prevailed sufficiently, it carried the association into a town-guild, and finally grafted it into the municipality. The secular distinction was not fully established until after the Reformation. This is the reason why Toulmin Smith gives the broader name of "social" to these associations, which were partly religious. It is not possible to run a logical separation through all the social, merchant, town, and frith guilds. They probably began with the simple purpose of association, and developed into one or the other, as the local circumstances varied.

The burning of candles to the patron saint was an

important duty assumed by all guilds of this social character. On the Continent, toward the close of the fourteenth century, a large society owed its commencement to one of these votive offerings. Some merchants and traders were drinking together at Flensburg; when contribution was made for the score, six shillings remained after discharging the reckoning. They ordered a candle with this remainder sum, and placed it to be burned before the image of the Virgin Mary. The association increased; a large income accrued; more candles were bought; and finally a whole guild with officers, statutes, etc., centred about the feeble light which the drinking score reverently placed on the altar. The duties of these Continental associations were not unlike those of Abbotsbury and Exeter. They are described by Hincmar, Archbishop of Rheims, in his capitularies, as early as the year 858, though not in the full detail or with the settled methods of administration which we see in the English examples. Judging by the comparative numbers given by Wilda,<sup>1</sup> these associations were more numerous on the Continent than in England. There were twelve in Norwich; as many in Lynn; in Bishop's Lynn, nine; while in Continental Cologne we find eighty, about seventy in Lübeck, and at Hamburg the number reaches one hundred. The lay-guild of Hincmar is called *geldonia*, and this name distinguishes it from the associations which belonged exclusively to the clergy.

The bond<sup>2</sup> which united these worthy brethren was

<sup>1</sup> Brentano: On Guilds, p. 19.

<sup>2</sup> Schanz accounts for the "aim and formation of the Church Brotherhood" in Germany. "The two principal reasons for this were, first, the necessity of a representation of the corporation system in the church; and, second, to care for the members of the guild who were poor and ill."—*History of German Trade-Guilds*, p. 4.

graceful and beautiful, and is hard of comprehension in our more prosaic age. Life has divided itself now into more businesses and specified duties. Ceremonial religion, which in early Catholic and mediæval times played around all the secular provinces of life, has been relegated to a very narrow sphere. Religiously minded people in Protestant countries,— and these are now the great industrial provinces,— use very little ceremonial whether they be at work or at play. It was not always so. The alms which are now served out perfunctorily by a crusty official, or shuffled off by a paid agent, were then gently administered by a hand familiar with the cross, and the accompanying word came from a brother who prayed for the sufferer whom he helped.

We can see the Guild of St. Mary of Beverley,<sup>1</sup> as it moved out in procession on the festal day, which was the central point around which the affections of its little community clustered. There comes a youth dressed up like St. Elene; an old man bearing a cross, another bearing a shovel, go before him. Then come the "sisteren," then the "brethren," followed by the stewards and aldermen of the guild: and all go to mass. Then they all go to the common meal, the inheritance of the Aryan generations, sanctified by the forefathers, enriched by the prayerful usage of so many households. The poor were not forgotten while the community feasted. Bread "well bolted and thoroughly baked," the gift of the brethren and probably the labor of the sisteren, was distributed to those who could claim assistance from this mild and peaceful community.

And again, in the fraternity of the "Blessed Virgin Mary at Hull,"<sup>2</sup> we see how carefully they regulated

<sup>1</sup> Toulmin Smith: *Early English Guilds*, p. 148.    <sup>2</sup> Ibid. p. 158.

their intercourse with each other. "If any of the brethren or sisteren quarrel with any other (which God forbid !), the alderman steward and two helpmen shall deal with the matter." There were guilds especially devoted to the performance of the miracle-plays, a custom which still survives at Ober-Ammergau.

Brentano says that people of all ranks<sup>1</sup> and conditions of life were generally admitted to the membership of these bodies. This is in substance true; but the institution belonged to the middle class proper, and when it rose above or fell below this class, it ceased to work its true mission of a guild, as we shall see. The funds necessary to maintain its objects were obtained by entrance fees, gifts, and the legacies of members. Almost all club associations have tended toward too much eating and drinking; the guilds, whether named social or religious, have not been an exception. Great feasts and hard drinking have troubled the more serious and thoughtful members since the days of Hincmar. According to Wilda, they sometimes incorporated in the statutes that "not eating and drinking, but mutual assistance and justice, were the principal objects of the guild." A parson at Ewerduop entertained one of these companies in the year 1598. Among other things, they consumed in this monster feast one head of cattle, six lambs, two fat swine, seven geese, ten pairs of fowls, three tuns of Rostock beer, and two tuns of home-brewed beer. The whole meal cost one hundred and fifty-six marks, one shilling.<sup>2</sup>

The guild-merchant, or town-guild, partook more of the nature of the *civitas* than these social guilds we have been studying, and which were mere associations. The possession of town-land was the distinguishing

<sup>1</sup> Brentano: On Guilds, p. 23.

<sup>2</sup> Ibid. p. 27.

mark of most early burghers and substantial citizens. They were generally traders or merchants, and often conducted handicrafts with bodies of workmen under them. A merchant had also large opportunities for social advancement. Early in the Saxon times, a merchant who had made three voyages beyond the seas could rise out of his *ceorl* class and obtain *thegn* right. These guilds embodied more municipal force than the true guild, and carried with them the tendency to rule, to partake in the sovereignty, as I have stated in another connection. Oftentimes the whole body of effective citizens had become members of one guild; old "usage" had become guild-law, and that law became the law of the town,<sup>1</sup> or the municipality.<sup>2</sup> This was not always the case; there were some marked exceptions.

The origin of these associations of mixed character, partly social guilds and partly town governments in the form of a guild, cannot be fixed in date, but is clear in its historic workings. In Anglo-Saxon times, under King Athelstan, the statutes of the London guilds were reduced to writing. The frith-guilds were thus apparently united into one guild, for the better maintenance of social order and the administration of justice through especial statutes made by the king. This became the

<sup>1</sup> There were instances on the Continent where the guild interworked with the town government. "In Freiburg the guild has far more significance. They despatched their four delegates to the session of the committee which had to consider the assessment of new taxes. No city property could be sold without the consent of the master of the guild." — *Stieda's Annals*, p. 80.

<sup>2</sup> ". . . relations of old guilds and the self-governing local commonalties as municipal bodies. As a general rule, there was harmony and not antagonism between the municipal bodies and guilds." — *Toulmin Smith's Early English Guilds*, p. 348.

foundation of a true municipality, and the twelve Livery Companies, which though important were subordinate parts of the organization of the city, date from a later period.

At Dover there was an early guild-hall, and it was supposed that a frith-guild accompanied it. A little later came the guild-merchant of York, the large and important one at Beverley, and many others which are recorded. "The Guild of St. John of Beverley of the Hanshouse" was regularly constituted as a local and municipal authority by Archbishop Thurstan of York,<sup>1</sup> about the year 1132. We must always keep in mind that the charters are subsequent by a long term of years to the local customs on which they were previously founded. We see in this charter some striking and interesting features of the relations between the feudal suzerain and the burgesses who governed the rising community of Beverley. The right of toll is granted forever for eighteen marks a year, excepting on three feasts. The lord of the manor, the ecclesiastical baron<sup>2</sup> and fief-holder, grants the "free right of coming to said burgesses and going out; within the town and beyond the town, in plain and wood and marsh, in ways and paths and other easements,— save in meadows and cornfields." The small sum of money paid indicates that this was the vestiture and legalization of a prescriptive right, long used and enjoyed, rather than a new privilege.

In the guild founded on the "old usages of Winchester" we can see the beginning of that minute adjust-

<sup>1</sup> Smith : Early English Guilds, p. 150.

<sup>2</sup> Similar customs prevailed on the Continent. "When the bishop went into the field, he received from the town prefect a hat and pair of gloves." — *Stieda's Annals*, p. 38.

ment of power between different parts of the organism, to which Anglo-Saxon and Anglo-American Outgrowth political civilization owes much. "The mayor of a Town shall be chosen every year by the four-and-twenty sworn men (a council), and by the commonalty. Six good men shall be chosen, three by the commonalty and three by the twenty-four, to gather in all king's dues and town rates."<sup>1</sup> The seal — which as we have seen was an important symbol of sovereignty, the embodied personality conveyed by an association, which could then in its turn convey the definite act of one, though this act sprang from the many — was cared for in minutest detail. Three copies were made; two were in the custody of two of the twenty-four chosen men, and the third copy was in the hands of the commonalty. All were kept in a coffer, set in a larger coffer having two locks, — the key of one lock being kept by one of the twenty-four, and the key of the other was safely grasped by one of the commonalty. In the ordinances of Worcester, which were generally similar, there were six keys managed in like manner, and given up annually. In both the Minute towns there were careful provisions for conducting trade<sup>2</sup> and the operations of the great guild-sale. The taxes, fines, nuisances, rent of guild-hall, were all defined most rigidly. At Winchester<sup>3</sup> there

<sup>1</sup> Smith : Early English Guilds, p. 357.

<sup>2</sup> "In Munich the law forbids any one to buy or sell in front of his own door, or by the roadside ; all trade must be conducted at the market." — *Stieda's Annals*, p. 102.

<sup>3</sup> And in Germany the government was quite patriarchal. "The wages were regularly established, not on account of any difficulty among the journeymen, but in the interest of the guilds, after which no master could have any advantage over the others. To the masters still belonged the oversight of a travelling journeyman, whose pouch it was his duty to examine, even if he had stolen nothing. The journeyman must go into

were regulations<sup>1</sup> as to the size and quality of quilts and blankets, details for the sale of fish and wool, the baking of bread, brewing, etc. At Worcester, strangers<sup>2</sup> could sell and shoemakers could buy leather only in the guild-hall. "Work-people outside of the town are not to be employed to the hurt of the commonalty in the town, upon pain of forty shillings."<sup>3</sup>

Security for their persons and property, and the orderly administration of their towns were the objects the burghers and burgesses first sought when they formed these guilds. Their trade-interests began to be affected almost immediately by the same means which they used to secure municipal order, and were hardly second in importance. Indeed, it must occur from the nature of the case that government once established would administer its civic functions and care for itself. The privileges contingent to the guild,—advantages of trade and opportunities for power over the craftsmen,—could then absorb the attention and interest of the enriched order of burgesses, whom a stronger and better regulated town government had created. And this corresponds to the historic fact; for the later guilds formed in England about the time of the fourteenth century were mercantile associations, and were called *gildæ mercatoriae*.<sup>4</sup>

The social and charitable duties of these town and

the bath with the master, who could send no substitute, since to preserve the cleanliness of the workman was still master's duty. 1361 A. D." — *Schanz's History of German Trade-Guilds*, p. 33.

<sup>1</sup> The laws relating to cloth-making were very severe at Strasburg. See Stieda's "Annals," p. 95.

<sup>2</sup> The restrictions were even more severe in some places on the Continent. "In Hanover, no stranger was allowed to sell either without or within the market wall. A.D. 1272-80." — *Stieda's Annals*, p. 68.

<sup>3</sup> Toulmin Smith : Early English Guilds, p. 383.

<sup>4</sup> Brentano : On Guilds, p. 41.

merchant guilds were similar to those I have described as characteristic of the religious guilds. In addition, they regulated trade and handicraft work, insured each other's losses in case of extraordinary accident, and made loans gratuitously to assist the weaker brethren in their operations. This guild in its early development embodied also the frith-guild as before stated, and it was in Denmark<sup>1</sup> that this institution was least interfered with. There it had a full career and development, not being swallowed by the enclosing municipality of the town on the one hand, nor changed in character by the rise of a rich class of burghers on the other. The Danish guild assumed the *wergeld* for either side when the issue was with a stranger. They assisted the relatives of a slain brother to collect it, or they helped an offending member to discharge it when they deemed his cause just. These Scandinavians<sup>2</sup> developed the principle of mutual association and protection to its farthest extent. In Sleswick, in the twelfth century, a guild-brother, a duke and holding office as alderman of the guild, was slain by the son of the King of Denmark. When Nicholas the king came to the town, he was warned that his life would not be safe. "Why should I fear these tanners and shoemakers?" said the haughty ruler of a feudal kingdom. As soon as he was fairly within the town, they closed the gates, rang the great bell of alarm, assembled all the brethren, and killed the king and all who resisted or who tried to defend him. Such was the power of an association which knew no government higher than the pledge of man to

<sup>1</sup> Brentano: On Guilds, p. 38.

<sup>2</sup> Palnatoki established a military guild in the island of Usedom, near Pomerania, in the latter half of the tenth century.

man! Wrong done must be requited, expiated in the blood of the criminal or of his nearest relative. There could be no organized justice, none of that subordination of part to part, which characterized the Roman society, and which has since developed the modern State. Man was bound to man, brother to brother, to obtain an instant satisfaction.

The Danish community was poor, the land not fertile, and containing few towns, and they did not develop trade and manufactures like the more favored portions of Europe. The town-guild, which naturally widened and gave a larger growth to the frith-guild, did not prevail in Denmark as it did in England, or even attain such imperfect proportions as we find in the commune of France or in the early germ of the free city of Germany. The guild of the Danes worked out its natural life as an association of middle-class people with homogeneous wants and tastes.

In the period from the eighth to the fourteenth century the Guild had its natural sphere of activity, and was an admirable instrument of the civilization adapted to that time. The feudal system was for the time a natural government of men in subordinated ranks, based on land. The land was a permanent reservoir of the fruits of Nature, a ready means of life that could afford a support to the various ranks of men, to the obligations of fealty, homage, and allegiance<sup>1</sup> which the feudal organization required and must maintain. The early seigniorial barons knew or cared little for artisans or commerce, except such arts and such simple trade as the common wants of a military life compelled. The rural lord kept armor-makers and other artisans on his own

<sup>1</sup> Stubbe: Constitutional History, iii. 514.

estate; he also kept his own merchant, his own priest and poet. When life broadened, and became more secure; when the higher chivalry had occasioned great meetings of lords, ladies, and retainers, and freer intercourse had softened the manners and elevated the tastes of these heroic but simple-minded peoples,—then this ampler, finer, more splendid existence created new wants. New orders of men and women came forward to supply the cloth of gold, the tissues of silk, the panoply of steel and leather which the tourney and the more accomplished court must have for its exercises and its pleasures. Artisans could no longer<sup>1</sup> work in rude and isolated castles; they must be gathered in groups, where the friction of mind with mind would stimulate the worker, and add beauty to the work of the single pair of hands. Merchants must be encouraged,—larger men and bolder, with ample means and sufficient skill to furnish these needed luxuries, and to link the want of the noble to the growing capacity of the artisan. The same process then went on which now prevails, wherever life rises above the half-civilized condition. The capital was latent, and needed a new agent to force it into activity. The want of the baron and his lady furnished the motive; the hand of the artisan was the ready instrument, and the brain and commercial instinct of the capitalizer fused them together in a new process, and welded them into a higher

<sup>1</sup> "The end of the twelfth century and the beginning of the thirteenth we consider a marked period of reform. Perhaps there was never so much change as at that time. The personal feudal bondage was entirely removed. More and more the country life was influenced by the various callings that began to rise in the towns. We find always in the frequent founding of markets the desire for altering the old customs." — *Stieda's Annals*, p. 56.

activity for the social good of all the classes together. There was not the orderly development of capital and labor united in capitalizing, which our more advanced system gives us, but the process was in essence the same ; a like principle permeated the heaving masses of mediæval time, and brought our modern regulated order out of that ancient chaos, that seething mixture of Teutonic vigor, old classic culture, and Latinized splendor.

All this created the town. While the land was attainable in fief, either by annexation or conquest, by *beneficium* and commendation, lord and vassal could live in rude and easy plenty, eat huge rounds of beef and drink deep draughts of beer. The growing life, the higher wants, the more educated desires of the rising community were creating the town and the city. Burghers and craftsmen could not be satisfied with land ; that is, only the moderate wants of their early and simple life could be supplied. They had their homesteads and their grazings in the early days, but as the towns grew, they must confine their activities to civic life. Then came the guild-hall, which was only a castellated market. The burghers were warders, and the commonalty and craftsmen were men-at-arms and trusty sentinels holding the fiefs of trade and privileges of handiwork. The stranger was an alien, just as the landless man without a lord was an outlaw. The idea that a human want was a natural and necessary agent, and should supply itself by trade or manufacture in a free and unrestrained way, was too transcendental for those days. Everything must be regulated and controlled by its superior, or society would fall in pieces. The shoemaker could not buy the stranger's leather outside the

The Guild-hall a castellated Market.

guild-hall, nor could the alien sell it. The privileges were all enfeoffed, securely bound by prescriptive use and custom. Work-people from abroad could not come in and compete for the opportunity of labor; that belonged to the commonalty. One of the commonalty must keep some of the keys of the coffer where the seals were lodged, and sometimes those of the treasure-box also. The sworn men must collect the king's dues, and only these trusty agents of the town-guild could discharge the office. All was securely fettered and chained, in link by link of custom and fixed usage. The feudal suzerain was propitiated, and his powerful protection kept a certain peace and order in the larger provinces of government. The magnate baron was conciliated by money and by grants of troops and supplies from the rich and wealthy towns. We see Archbishop Thurstan giving peaceful and orderly communication between York and his surrounding domain by ways, paths, and easements. But the larger and older arm of feudalism, the arm resting on land and military service, could not dwell long in harmony with the industrial arm, the civic community, which was constantly gaining and growing stronger. The system was warring within its own members; and the rise of the towns, their struggles with baron and bishop, with king and emperor, have furnished the most fruitful as well as significant periods of constitutional and social history.

The guild grew into the town, and the town favored the guild in all the early periods of this development.<sup>1</sup>

<sup>1</sup> These customs changed slowly. The Mayor of Winchester sued to prevent a man, "not a freeman of the merchant-guild of that city," to exercise a trade, claiming prescriptive right in the guild by usage. The court decided against the mayor, and ruled that "the franchise was laid in the *gilda mercatoria*, which though incorporated by the

But this harmonious interchange of social and municipal functions was in the early time, when the whole community was weak, and must stand together to sustain any ordered life of its own. Separation of Guild and Town Government. When the burgesses had grown wealthy ; when the municipalities had become strong communities, able to muster troops against the suzerain ; or, when confederated, they were able to oppose the whole military power of the landed aristocracy,— then the conditions of life were changed. The simple guild-bond, the tie which had held the weak brethren in close contact, loosened when the issues of municipal life had strengthened, and larger social tendencies began to carry the members in varying directions. But before we pursue this thought, we must consider the latest form of our institution, which arose among the artisans and workmen.

When the frith-guild and its close ally the town association were in their first periods, the class distinctions of the craft-guild, which we now treat, were not marked into divisions in the guild. The early merchants were craftsmen as well, and doubtless much of the hard labor was committed to serfs, or to those whose condition<sup>1</sup> in life rose just above that of the man attached to the soil,— those who were included in the great mass of the unfree, as Mr. Kemble terms them, among the Saxons. But commerce brought prosperity, and the masters of the craftsmen accumulated wealth, until their more luxurious tastes separated them more and more from those whose ancestors had been grant from the king, yet the court could not presume that the *gilda mercatoria* and the corporation of the city were the same, though they might be so." — *Kyd on Corporations*, p. 64.

<sup>1</sup> "It is plainly shown that those carrying on trades were the first to raise themselves from the state of bondage." — *Stieda's Annals*, p. 105.

admitted to work their craft in company with, and as almost the equals of, the master himself.

As early as the thirteenth century we find a statute declaring that no man "with blue nails" should be admitted to the privileges of the guild. Those who hawked wares of their own making about the streets, the trading craftsmen, were also excluded from the society of the now aristocratic members of the merchant-guild, until they had forsaken their trade for a year and a day. In Cologne,<sup>1</sup> the descendants of these old guild-brothers had crystallized into a patrician order, cramped by the stiffest prejudice and arrogance. They had oppressed generation after generation of the workmen, until their condition was hardly better than that of the villain bound to the soil in the earlier centuries. Associated power created firm bonds of prescriptive privilege<sup>2</sup> in this institution, as in the others of the time; and these privileges fettered the classes just beneath the favored ones. Naturally the craftsmen used the same instrument by which the masters had prevailed over the nobles above and the serfs beneath, and resorted to the power of association. In the eleventh century, craftsmen partly bond and partly free were expelled from the membership of the guild-merchant.

The weavers were among the first to bring their associations into notice, and they had powerful organizations in the eleventh and twelfth centuries. It is

<sup>1</sup> Turgot, who abolished the prescriptive privileges of the *communautés* in France, condemned them for the same reason. "Cupidity and selfishness of the members led to monopoly and restriction." — *De La Farelle's Progrès Social*, ii., 237.

<sup>2</sup> "The permission to sell in certain places became in time an inherited right; and the attempt to keep the number of these prerogatives small to prevent competition, became the object of the establishment of the guilds." — *Stieda's Annals*, p. 3.

remarked that regular associations of craftsmen appear everywhere in the settled communities of Europe, just as the last traces of serfdom disappear. The constitution of the craft-guild was like the elder bodies in its general features. The same benevolent care of the brethren was enjoined and practised; the members met weekly or quarterly, with ceremonies suited to the occasion. The box, with its several locks, with its keys distributed, appears and holds the treasure securely; the officers are chosen by the brethren, and are fined for non-acceptance of their honorable and enforced duties. Among other ordinances of a wholesome nature, we find some which carefully control the quality of tools which a member shall use.<sup>1</sup> Good workmen with good tools made good wares; and this process was governed by excellent methods and stringent administration. This system of manufacture was not established without considerable difficulty, for it was met by opposition from the town magnates and merchants on the one hand, and by the irresponsible or vagrant workmen on the other. It was not until the fourteenth or fifteenth century that the struggle was fairly over, and the control of each handicraft given to the guild which represented it. In return for this right, they allowed every craftsman<sup>2</sup> in each town to join his respective guild. The frith element did not come into the earlier associations, and in some places the craft-guilds never obtained much political power, nor became political factors in the

<sup>1</sup> "In Berlin was an old distinction, in 1284, between shoemakers and cobblers, to whom it was distinctly laid down what they were allowed to do; namely, to put new soles under old shoes, and to new vamp." — *Stieda's Annals*, p. 120.

<sup>2</sup> "The furriers at Berlin in 1280 were forbidden constant work, because they had not yet formed a guild." — *Ibid.* p. 87.

municipal development; but they controlled their own trades and handicraft work. In some cases the guilds were not laborers, nor capitalists, but homogeneous bodies of small workmen; and then they contended strenuously with the capitalists ruling the town, for due recognition of their craft privileges.

The same process of evolution which had worked a political and municipal change in the guild-merchant now began to show itself among the craftsmen; and here it worked a change more social in its results. The settled order<sup>1</sup> of the handicraft community had insured production and enlarged the powers of the craftsmen.<sup>2</sup> Wealth had, in turn, accumulated in their hands, and capital became necessary to enter the association, which in its weak state had freely opened its doors to those who could not control their own bodies, who had not even personal rights, the best capital of all the commodities. Curiously enough, the statutes before the fourteenth century do not mention workmen as such. The class distinction had not divided the brethren within the Guild. After this, or as early as 1350, disputes are noted between masters and workmen, which are settled by the unifying power of the Guild. A particular class of punishments for reviling was inflicted both upon the masters and upon the journeymen workers; the offences were not caused by disputed wages, but by infringements of privilege on one side or the other.

Finally  
Craftsmen  
become  
Capitalists.

<sup>1</sup> "In the earlier time wages by the day alone predominated; but later, since the end of the fourteenth century, wages by the job prevailed at the same time."—*Schanz's History of German Trade-Guilds*, p. 109.

<sup>2</sup> "In Berlin, in 1288, whoever would be a tailor must be a citizen. It followed naturally that whoever acquired the right of citizenship determined to belong to the Guild."—*Stieda's Annals*, p. 84.

In the fifteenth century capital became almost essential to the admission of a craftsman into the guild fraternity. The rules of apprenticeship grew more severe and vexatious, rendering it very difficult for a poor person to gain the privileges of the craft. The societies entailed the benefits of the association as far as they were able, and confined them to their own children and descendants. They excluded yeomen from the membership, and the transformation of the simple association of brother craftsmen and of the early bondmen into a firm union of capitalists and craft-aristocrats became complete. The patrician order had established itself among the tools and workshops.

Then associations of journeymen began to form themselves outside the guilds. These latter associations were more like the modern Trades-Union than the early Guild, as we shall see. The evolutions of the craft-guild into a privileged union of capitalists seems to have been irresistible and not to be prevented. An act of Philip and Mary attempts to restore the equilibrium, and to favor the small masters in their struggle against the capital of their richer brethren; but it failed. Such legislation has always come to nought.

Dr. Brentano in his enthusiasm for mediæval institutions seems to overlook the necessary change which freedom and the personal development of each individual man have wrought in our social system. He commends the mediæval regulation of the market by means of these craft-privileges and guild-statutes as something beautiful, which has been lost and which ought to be regained. He says those societies regarded a working-man as a creature to be watched over and protected, and not to be aban-

doned to the oppression of stronger capitalists. I think the foregoing statement of the rise of different forms of the Guild, and their necessary change into capitalists and privileged orders,—mainly drawn from Brentano's own account,—sufficiently refutes this idea. It is not possible to endow a man with free attributes, with all the powers of an independent constituent part of the State, and to surround him at the same time with the props due to an infant, or the social protection fitted for the rising serf and the half-emerged bondman. The power to rise must carry with it the tendency to fall. The social privilege which carries a poor man into any opportunity to which his talent may be equal will also leave that poor man and lend itself to a still poorer brother, when he does not use it wisely.

The regulation of the market<sup>1</sup> in the time and largely through the influence of the guilds, which the Doctor commends so highly and regrets as a lost art, was hardly inspired by the motives he supposes. This minute regulation of trade and handicraft did not come from a larger appreciation of the duties of society to any individual workman or capitalist, but was simply an extension of the old "custom" price,—thus making it into a social obligation. A market in the early time, as Sir Henry Maine<sup>2</sup> divines, was the neutral ground where the traders who came from the villages and village communities met, and exchanged supplies and satisfied mutual wants. These traders and caravan dealers were a new element, a cosmopolitan link which could connect these narrow circles, these village interests, with each other. The trade which had grown up in the village or clan circle was something quite different

<sup>1</sup> Brentano : On Guilds, p. 78.

<sup>2</sup> Village Communities, p. 190.

from this outer exchange, this international communication on the neutral grounds where no *one* community controlled, no *one* custom prevailed. The trade in the village, in the home circle, was a privilege, a prescriptive right, something growing out of the prerogatives of the artificial family. The exchange in the market at the cross-roads, where all the families met and made the composite commercial intercourse of a nation, was something alien,—foreign to the prescriptive custom on which the village and clan intercourse had always based itself. The idea of both an exchange and an interchange, a barometrical control of the wants of communities and nations through the exchanges of this wider market where all wants met and satisfied themselves, was entirely beyond the comprehension either of tribal or of mediæval times. The caravan dealer, the alien trader, was a necessary evil, to be admitted only because they coveted the fascinating treasures in his sack. The chief, or the feudal suzerain, would protect and blackmail him, while the feudal retainer would grudgingly yield to the half-extortionary exchange which his own growing wants compelled him to make with the alien trader. At last this travelling trade concentrated in the fair; and Novgorod to-day is only a gigantic relic of the commerce of the earlier Aryan times. The fair, the neutral exchange, gradually established new customs, and wove new exchanges into the warp and woof of price,—that mystic modern creation which wraps itself about the wants of every man, king or toiling laborer, and nets great nations in its toils.

Price, the market rule,—as I have called it, the barometer, in which every want is registered, weighed, and

counterweighed, until the result indicates the controlling principle, subjecting nations as well as individuals to its sway,— is the necessary consequence in the combination of custom and exchange. Every man gets all he can ; but custom limits the maximum of his getting, and also limits the minimum he will consent to receive. But there are no fixed relations in human intercourse ; a change—call it progress or what you will — comes in, and deranges these absolute limits of custom which individuals and communities fondly cherish, and sometimes believe to be the necessary foundations of civilization. This social change is in commercial form, and in technical expression it is the element of exchange. It always deranges any “custom” in the mediæval sense, any regulated system of trade, values, and prices, by the inevitable interposition of another set of wants from other individuals, other communities, — from the whole world in fact.

All individuals, all communities, when they have once established a price, have tried to fortify it by custom, to maintain it by fixed usage. The control of the guilds over trade and price was an effort put forth in this direction, and inspired by this motive ; and it was nothing more. The guild association made certain sacrifices, obtained certain privileges ; it meant to hold them for the benefit, first, of its own associates, then of their descendants,<sup>1</sup> and finally of those who would pay roundly for the privilege. The feudal barons, retainers, and fief-holders did the same ; they obtained land or other social advantage, pledged certain service in return, and enlisted the whole power of the State to maintain those

<sup>1</sup> Brentano: On Guilds, p. 85.

privileges, to guard those borders. Privilege was the mainspring of intercourse, the organic principle of social life. Did wool grow in England? — then it must be kept there for the exclusive benefit of English-born men and women. Did gold and silver come into Spain? — then it became a sacred emblem consecrated to Spanish want, and not to be possessed or even coveted by any alien creature.

It is useless to speculate whether this is the method of paradise, or whether it would be the best method of modern societies. It is not and cannot be the method of their development; for they have selected other paths, and must follow them in the future, guided and controlled by inevitable laws. Civilizations err in their steps; they grow old and decay, — but they never go backwards, never retrace the steps they have once taken or mistaken. Society may institute whatever life it chooses, but it must conform that life to steam, electricity, and their attendant institutions. Communication nowhere lessens; it constantly increases, and thereby mingles human needs and creates corresponding desires. Custom may resist either through individuals, or through the might of associations; but in the long account it must yield to exchange, — that overwhelming force which larger communities and the demand of the whole world exert upon the established customs of narrow circles and close communities. Exchange society must have, whether it be in the open form called free-trade, or in the moderated form limited by tariffs. That is a question of methods. We may have toll roads or open roads, just as we may prefer to tax ourselves; but a road must be opened and kept open through whatever soil social beings inhabit. So with

Privilege can no longer control.

exchange,—it is impossible to prohibit it. The smugglers settled that question, and established the fact of necessary exchange, long before the principle was recognized either in the law of the State or in the generalizations of philosophy.

The market-price is the inevitable consequence of this long social evolution, the interplay of custom with exchange. It becomes the index-finger by which we perceive the ebb and flood of human wants ; the warning monitor, by which we can foresee the imminent pressure of the tide and possibly counteract its effects. It applies to associations of men, artisans or sovereigns, as the case may be, just as it applies to all other movements. To suppose that the price of labor or any other service will again be controlled by the custom prescribed by associations, however powerful, is as reasonable as to suppose that the future Euphrates railway will be regulated in its tariffs by competing camel trains, or that the Peninsular and Oriental steamships will be held in check by fleets of Indian canoes and Phœnician galleys.

This principle, one of the most powerful factors in modern civilization, was inherent in the Guild, and manifested itself in two ways, in different directions. In one way, when the early Guild carried some political powers in its bosom, these larger forces from their essential nature expanded it with its neighbors into a town or a municipality. In the other way, when the Guild was left to its own native powers of association ; when the growing humanity which political life always engenders in institutions was excluded,—then the social privilege created by it crystallized into a narrow and ever narrowing

Exchange controls modern price.  
Political differentiation narrowed the Guild.

circle.<sup>1</sup> It was not the fault of the Guild, whether in its social, merchant, or craft form ; it was the innate character of the institution working out into common life. The brethren loved each other, it is true; but the affection must be exercised at the expense of somebody else. The other somebody has always come in finally, and taken possession of the fruits of the privilege. That is the lesson of history : the stone rejected by the builders becomes the head of the corner, or at least grinds away the privileged stones, and leaves a razed table on which new classes build themselves. In the oldest guild-statutes<sup>2</sup> the lowest ranks were especially favored, but in 1720<sup>3</sup> it cost an apprentice from £500 to £800 to become a member of a London guild. The privileges invented for the especial benefit of the poor and the weak had become high-priced luxuries, available only for rich and favored individuals.

The Guild associated people as brothers, and this nucleus of power obtained certain privileges, sometimes political, sometimes social, as I have explained. It was an orderly creation, a growth native to the time. But the essence of the institution was in the privilege which the good relations of the members to each other enabled it to obtain from society or the State. Now, the conditions are changed. In old societies privileges are maintained with difficulty ; in new they are not granted as such, only as a ready means by which the whole community may attain advantages not otherwise to be had. Persons may now associate together to obtain any end which does not transcend the political obligations of the

<sup>1</sup> Brentano On Guilds, pp. 46, 84, *et seq.*

<sup>2</sup> Ibid. p. 45.

<sup>3</sup> Ibid. p. 85.

associates. They cannot form a guild which shall obtain a political or social privilege from the State, and use that privilege against the social rights of other citizens. We incorporate railways, not that the shareholders may obtain better interest for their capital, nor that the laborers may get better wages thereby ; but in order that society may be better served in transportation. The privileges or profits created are incidental, and for an especial end ; they are not the object of the incorporation.

In other words, all creatures of the modern State are special agents to work out definite social ends ; they are not endowed with privileges of their own, peculiar to themselves. The individual still has great powers, which he can reserve and use in his own way, at his own will ; but in order to use these powers he must continue to live, think, and act as an individual, and not constitute himself a part, a mere part, of any machine, however fascinating its temporary advantages may appear to be. The especial friends of the working-man, as they call him, are always contending against this established principle of the nineteenth century ; they are constantly putting him forward as an exceptional creature, endowed with peculiar faculties, impelled by exceptional wants, and claiming an exceptional social field on which he can exercise these faculties and obtain these desires.

This is absurd in essence. Society now has many rewards and punishments ; it has but one method of distributing them. Forms of government vary, and social organisms exhibit every variety, from the new noble of Russia and the new magnate of Nevada to the old dukes of England and

Modern  
Privilege  
seeks larger  
ends.

Individuals  
must serve  
Society, not  
Associations.

the older princes of Italy. Whatever these social prizes may be,—whether a chancellorship or a dukedom, a marshalate or a railway presidency, an estate in millions or a little suburban cottage,—society has but one method in awarding them: it gives them to the individual who best serves society.

Guilds and Unions cannot change this deep-laid principle of civilization. All the attempts to make the laborer into a distinct being, a something to be classified apart from the individual members of society, will end in degrading him from his true rank of manhood into the lower functions of a caste. Let it be remembered that modern civilization works directly, and by one means to one end. It takes the individual, wherever he is to be found, and promotes him, not through a class of his own, but through a larger life of its own.

If we could build a State on theories, and develop a society out of our own consciousness, we might use this experience of the town-guild. It would appear to be wise in any modern State to carry all ignorant and partially developed persons through a process of political and social education analogous to the life of the old guilds, before granting them the full powers of citizenship. But no such intermediate relationship has found favor in modern times. One of the dangerous tendencies of our present civilization is the readiness with which it takes up sudden change. The American emancipation, the Russian emancipation, Italian unity, the lost temporal power of the popes, the German empire, the French republic,—each illustrates in different directions the sudden and precipitate character of modern social and political change. A movement, whether political or social, once

truly initiated and naturally started, moves with tremendous speed, overturning any institution which impedes it. The method of the railway, the impulse of the electric current, have inoculated the minds of men. No feature of modern society better illustrates this than universal suffrage in its inevitable progress. Wise men in all nations, in every class of society, would gladly limit the development of suffrage by stringent restraints; but no such result has been established except in England, and there only by the incidental working of historic institutions. In France the empire uses the peasantry; gradually these peasants become citizens and turn the government into a republic. Prince Bismarck coquets with the lower classes, and suddenly finds himself confronted by a powerful socialism, which the rising voters have arrayed against the older privileged classes. In the United States, the untutored peasant from Europe votes against a Webster or an Adams, and in turn the negro votes evenly with the son of a Clay or a Calhoun. It is not that this is the best system; the marvel is that society can exist under such shocks. That governments are on the whole stronger, that people are generally more prosperous in these latter days, is sufficient evidence that the method of history is the method of Providence. This uplifting of the lower and even the lowest orders of men is a principle so good in essence, so potent in working, that it can bear the consequences of haste, and even repair the damages of political folly.

The ballot is the great educator; if not the best, certainly it is the most powerful influence in <sup>Ballot the</sup> education. The State is not content in these rapid days to await the slow evolution of the citizen <sup>rapid</sup> educator. through grades of rank and caste, through the moral

restraints of the church, or the orderly associations of guild and fraternity; the State confers its favors at once, and lays its obligations immediately upon the individual man. A slower process—some period of probation between the ignorant, passionate man and the enlightened, sober citizen—would seem to be better from every point of view; but it is not to be had, and it is a fruitless task to mourn over this necessary tendency of our present life.

One cause of the great results achieved by the English Trades-Unions is to be found in this principle. The privilege and prescription of English society, though beneficial as a whole, partly live on political repression. It press hard on the individuals, or the class just rising into a higher social condition. The political changes of 1830 gave no sufficient opportunity to the rising class of artisans which the new life of the century was putting forth. The struggles of these neglected ones made Chartism. The political capacity which Chartism had educated found a more ready mode of exercise in the opportunity which Unionism gave to the rising artisan and laborer to make his will felt. If fair political opportunity had been afforded to the classes ready for English citizenship, probably much of the loss occasioned society by the blundering massive strikes of the past quarter of a century might have been saved; but we treat this matter fully in another connection.

My object in this chapter has been to show that the Guild was an excellent socio-political organization adapted to a rude system of social life. It is outworn. It discharged its functions in its proper time very well, as the traces it left in some of our best institutions show to-day. If we were to organize a county

in any civilized country now, we should hardly create a count as a necessary part of the social machinery. No more can an association whose manifold functions have passed into the municipality, into the army or militia, into the free exchange of open markets, be revived at this late hour, or be reinstated to confound the issues of a larger social life.



## **LABOR ASSOCIATIONS.**



## IV.

### LABOR ASSOCIATIONS.

"IN their essence, Trades-Unions are voluntary associations of workmen for mutual assistance in securing generally the most favorable conditions of labor. This is their primary and fundamental object, and includes all efforts to raise wages or resist a reduction in wages ; to diminish the hours of labor or resist attempts to increase the working hours ; and to regulate all matters relating to methods of employment or discharge, and mode of working. They have other aims also, some of them not less important than those embraced in the foregoing definition ; and the sphere of their action extends to almost every detail connected with the labor of the workman, and the well-being of his every-day life."<sup>1</sup>

We have here the basis of the Trades-Union stated by one of the latest and best instructed of its advocates, in a volume compiled with much industry out of the historic facts and the apologetic arguments in favor of the system. Mr. Howell has set forth the general condition and working of these great bodies at this day. He is himself, if not an actual working-man, thoroughly familiar with their daily life, and from his point of view he is fair-minded and candid. The important matter often lies in a postscript ; and we must note in this statement that the power of the Association extends into "every detail of the well-being of the laborer's every-day life." The bearing of this princi-

<sup>1</sup> Howell : Conflicts of Labor and Capital, p. 147.

ple we shall see more fully if we trace back a few steps in historic development, and look at the social foundations on which Trades-Unions and all modern institutions rest.

I stated in the beginning that there is an immense inheritance that each and all of us receive out of the past, and especially the Aryan past. This common organism slowly formed out of the history of one race, is Society. On this great substructure, which belongs neither to you nor to me, neither to the English duke nor to the English laborer, rest the four great institutions,— State, Church, Family, Individual. There is no religious issue involved here, and we will not consider the Church.

The Trades-Union begins with the plausible statement that every one has a right to his own wages ; then, as he

A Social Usurpa-  
tion. cannot practically obtain that right alone, he can combine with others to attain the same end ;

then this common effort gives them a social right to carry this consolidated force into every detail of their own well-being. It might be expected that an *imperium in imperio* of this kind would unsettle the foundations of the society on which both the laborers and the capital of these unions rest; and in fact it has done so. Murder, violence, false witness against one's brother, and every kind of petty malice against individual man and woman, have been used to forward the ends of this power directed toward the well-being of the daily life of laborers.<sup>1</sup> The wonder is not so much that these great Associations have grown to their present proportions, but that society has been strong enough to withstand the process by which they have carried on their opposition to the settled order of civi-

<sup>1</sup> Thornton : On Labor, pp. 207, 226, 236-239.

lized life. It is the fashion to say that all this is necessary and proper, because the rich and well-to-do classes have had the advantage in all time, and the laborer must have an offset that he may right himself now. I shall not attempt to clear up that entangled issue. I do affirm, that no possible historic wrong can change the nature of a false social principle. To remove one disease by introducing another does not create health at best.

We perceive in the following citation the attitude which Mr. Howell and his coadjutors assume toward society as a whole,—the great source from whence the well-being of their daily life is derived:—

“But if the workmen who are thus seeking employment have mutually agreed not to accept work below a stated price, or only upon stated conditions, and they have with others provided a fund which will enable them to withhold their labor until a better price is offered, they are justified in so doing; and they have by this arrangement placed themselves upon something like an equality with the employer, because they have the means of waiting and bidding for better terms. So also the masters have a perfect right to combine in the same way and with similar objects, and to assure each other against heavy losses in case of the refusal to accept employment being the result of previous concert and of organization. It therefore comes to this,—that both parties have the right of accepting or refusing the terms offered; and this right they can exercise either singly or in combination.”<sup>1</sup>

Who pays for this contest while it goes on? The capital accumulated in the workmen’s fund, <sup>Who pays?</sup> as well as that in the hands of the combined employers, is entrusted to either or both of them in order that society may be better served, or in other words improved thereby. Is this struggle a social gain? It is

<sup>1</sup> Howell: Conflict of Labor and Capital, p. 150.

as if the owners of the boats and seines should dispute shares with the fishermen who are to catch the fish, while the tide which bore the game to the shore is ebbing and carrying the prize afar off into unknown depths. Fish may come again, but that tide never returns. Food is dearer for that struggle ; and you and I suffer while this combined disjoined effort after well-being is working out upon the shore.

The English jurists, with that sagacious good sense native to the Anglo-Saxon courts, long refused to recognize this unnatural right of man against the right his brother man. This dangerous power of association traversed or destroyed some of the fundamental rights of both State and individual. The State, the municipality, the family, the individual citizen, were not parties to this disjoining contract, this separative force, whether it originated among masters or men. It is true that the statutes of Elizabeth had interfered with the orderly development of the laboring class, had broken the natural succession of the wage-earners in their passage from the "unfree" to the free, and had broken it mainly in the interest of capitalists. The true way to correct this evil would have been through the enfranchisement of the laborer. If he had been raised into a possible householder, and had the boon of citizenship and full political rights been set before him, it would have afforded a better end to his ambition than he has found in this share of a combination of savings, a fund to be used in oppressing the society which gave him the opportunity to earn his wages. The common law, if let alone, will usually work out its own cure of social evils. Not always, it is true; but the legalizing of these Associations is only one of

The old jurists saw to issue.

the forms of artificial legislation which vex this time. It is a step backward in the development of law and custom, as it likewise moves in the direction opposed to sound political economy. This is the socio-political view of the question, and only interests distant observers insomuch as it reveals the necessary and inevitable relations between political, social, and economical development.

If it be asked, What shall be the remedy against too low wages ? we reply, The sure remedy which controls all low prices is in the law of the market ; and it is as certain as gravitation, if let alone. We have seen in the foregoing pages that all sorts of combinations have been tried from time to time to limit or direct this simple social regulator, the law of the market. They have failed without an exception, and they have been instituted in the interest of every class of society. The reason of their failure was in this fact, — that their motive sprang from the interest or desire of one class or classes, and did not inhere in all classes, in the whole of society. The law of the market is founded in the social need; and it plays from the social centre to each individual member of the great circling mass. All political changes, all social changes, all economical changes, have steadily tended to bring these factors into closer relation and into a simple adaptation of their mutual wants. Society has needed the individual man and woman. It has dropped one institution after another which fettered this free intercourse of man with man, in order to bring its individual units, its constituent causes, — if we may be allowed this expression, — into a closer harmony with itself. The State, the church, the family, alone stand between society

Market  
Law pro-  
motes  
growth of  
the Indi-  
vidual.

and its individual members. Each of these great historic institutions has sacrificed a very large portion of its prerogatives in order that the social tie between society and the individual might be developed; and these last hundred years have been the most fruitful of all in this progress.

We cannot institute one false principle without deranging other principles and institutions on which the State rests. As we have said, the English jurists saw the unnatural tendencies of the trades-union, and resisted its habilitation in the law for a long time. The Unionists are not to be blamed for the outgrowth of this institution.

*False dogmas, not Laborers,* The idea which underlies the two positions which Mr. Howell states for them, was not created by laborers or employers; it came at fault.

directly from the dangerous dogma that labor creates all things. This theory could only end in an organization reaching farther than any lodge or union, and claiming larger and larger prerogatives as its power extended.

About the year 1851, a closer organization of the English Unions began to be effected, and the great "Amalgamated Societies" were gradually formed, with the results shown in the following figures reported for 1877.<sup>1</sup> Sixteen great amalgamations of engineers, masons, carpenters, tailors, etc., included 2723 Statistics. branches, with a membership of 208,318 persons; their income was £377,722, and expenditures £333,142, and they had a balance in hand of £603,064.

These figures are more eloquent than words, and show great achievements. If these efforts were founded on correct social principles, we should all award them every

<sup>1</sup> Howell : Conflict of Labor and Capital, p. 172.

praise. As it is, the English Unions are mixed institutions, producing both evil and good.

The general impression which the Unions have made upon intelligent and disinterested observers is fairly expressed in the following statement. It will be observed that this weighty committee found the results produced to be social and political, rather than economic.

In 1860, a special report upon Unions and Strikes was made by a committee for the Social Science Association, in England. Economists, statesmen, large employers, such as Mr. Acland, Mr. Charles Buxton, M.P., Mr. W. E. Forster, M.P., Professor Fawcett, and many others were on this committee. Mr. Frederic Harrison cites their report in a discourse on the "Good and Evil of Trades-Unionism."

"The character, ability, and wisdom of the leaders of trades-societies also vary much in different trades. So far as this committee have been brought into personal connection with societies' officers, their experience is that the leaders are for the most part quite superior to the majority of their fellow-workmen in intelligence and moderation. The effect of trades-societies as an education in the art of self-government is important. Many of the societies have organizations of an elaborate character, and have a machinery for taking votes of the trade at once simple and effectual ; and in many trades no strike can be authorized until the question has been discussed by several committees. This gives a habit of deliberation before action, which cannot but have a good effect. The leaders of trades-societies are known and responsible men : they have the confidence of their own class. However wrong-headed in particular cases the leaders of Unions may be, they are the duly elected representatives of their trade, and ought to be treated with courtesy. The fiction that they are self-elected is one which it would not be worth alluding to, if it had not been seriously repeated in the 'Edinburgh Review.' So far as

the committee have been able to learn, the officers of trades-societies are genuinely the representatives of their constituencies.”<sup>1</sup>

The whole principle of trades-unionism has been set forth carefully and candidly by Mr. Thornton in his work “On Labor.” Mr. Thornton is neither a communist nor a socialist; but an acute and thoughtful Englishman, with large sympathies, who, whenever his sense of justice will allow, leans to the side of labor in its struggles with capital. He sees in labor and capital, not theories, but immense and awful facts, which must bruise and grind each other until they are worn into some finer social relations. The idea that some wrong principles in the first constitution of the facts might be changed, and the whole result be ameliorated, never occurs to him. The whole affair must be fought out representatively and fairly; and when the strongest force has manifested itself, right will prevail. He admits the many evils of trades-unionism, stating them with candor and force; but he believes the institution to be absolutely necessary. He says:—

“Laborers may, by combining, acquire an influence which, if exercised with moderation and discretion, employers will in general be willing rather to propitiate than to oppose. Among the concessions which may in consequence be obtained by Unionists, the most material are those which affect the remuneration of labor, and these, it is commonly supposed, cannot, when due solely to Unionist action, be of permanent operation. We have learned, however, in the course of the present chapter, that the fact of an increase in the rate of remuneration having been artificially caused, furnishes no reason why, in the great majority of cases, that increase should not be

<sup>1</sup> Fortnightly Review, vol. iii. p. 37.

lasting. . . . Such being the efficacy of Unionism, there is no difficulty in accounting for its popularity without resorting, in explanation of Unionist loyalty, to any of those terrorist theories, the exaggerations of which have already been exposed, and on which no additional words need here be expended.”<sup>1</sup>

Mr. Thornton supports the extraordinary theory that an artificial rise of wages may be made into a permanent value by reconstructing the whole formula of supply and demand, as it is enunciated by economists and men of affairs. He says:—

“The price of labor is determined, not by supply and demand, which never determined the price of anything; nor yet by competition, which generally determines the price of everything else,—but by combination among the masters. Competition in a small minority of cases, combination in a great majority, have appeared to be normally the determining causes of the rate of wages or price of labor.”<sup>2</sup>

It is not necessary to refute this theory in its relation to price and value,—it refutes itself; common facts, occurring since he wrote, have nullified it. I am only stating the basis of trades-unionism in the words of its most intelligent advocate. It is interesting to compare these doctrines of Mr. Thornton with those of Josiah Warren, an American socialist, who approaches the question from the opposite direction. Mr. Warren works his theory of value, price, and supply and demand, out of the sovereignty of the individual, as he terms it; while Mr. Thornton’s comes out of the historic organization of society, political and social, as well as economical. Mr. Warren was an earnest man, who has

<sup>1</sup> Thornton : On Labor, p. 320.

<sup>2</sup> Ibid. p. 108.

had and now has a great influence in forming the opinions of laborers and labor-agitators in this country. He says:—

“It is now evident to all eyes that labor does not obtain its Warren's legitimate reward, but, on the contrary, that those theory. . . . who work the hardest fare the worst. . . . At this point society must attend to the rights of labor, and settle once for all the great problem of its just reward. This appears to demand a discrimination, a disconnection, a disunion, between *cost* and *value*. . . . Making value, or ‘what a thing will bring,’ the limit of its price, stagnates exchange and prevents our wants from being supplied. Now, if it were not a part of our present system to get a price according to the degree of want or suffering of the community, there would long since have been some arrangement made to *adapt* the *supply* to the *demand*. . . . Cost being made the limit of price, would give to the washer-woman a greater income than the importer of foreign goods; would entirely upset the present system of national trade, stop all wars arising out of the scramble for the profits of trade, and demolish all tariffs, duties, and all systems of policy that give rise to them; would abolish all distinctions of rich and poor; would enable every one to consume as much as he produced, and, consequently, prevent any one from living at the cost of another without his or her consent.”<sup>1</sup>

The difficulty underlying these two economical theories is the same, as I understand it. Mr. Thornton, and in a certain degree the political economists also, converts supply and demand into two entities. Take his illustration:—

“Suppose at each of two horse-fairs a horse to be sold, valued by its owner at £50; and suppose there be in the one case two and in the other three persons, of whom each is

<sup>1</sup> Warren : True Civilization, pp. 41, 64, 100.

ready to pay £50 for the horse, though no one of them can afford to pay more. In both cases supply is the same,—viz., one horse at £50,—but demand is different, being in the one case two and in the other three horses at £50. Yet the price at which the horse will be sold will be the same in both cases, viz., £50.”<sup>1</sup>

Here he assigns a metaphysical limit to supply, and yet admits only a portion of the mental process by which that limit is reached. The fact that the buyers can afford to pay only £50 has little to do with the price paid. The cause which influences their mental action is, that they know there are plenty of other horses they can buy at £50, though there is only one at hand. Economically, the absent horses enter into the supply nearly as effectively as the one present. This supply, present and absent, affects the minds of both buyer and seller, and limits the price; the limit is not a metaphysical one imposed by the competition of sellers alone, as Mr. Thornton would have us believe, and as he directly says elsewhere. We must bear in mind that Mr. Thornton has been partially approved by Mill and Professor Cairnes, in considering the weight of his theories. In the relations of capital and labor, he assumes that capitalists have the same control of the market-price of labor which he conceives sellers to have in ordinary trade; hence the necessity of trades-unionism to resist this control, which could not be governed by the economical forces of the market; and hence the above formula of supply and demand. Mr. Warren’s error is essentially the same. In his view, the price of labor is regulated by a metaphysical entity, which is not the relation of the labor-supply to the general market and demand, but is a result of “the

<sup>1</sup> Thornton: On Labor, p. 59.

want or suffering of the community." To overcome this entity he would revolutionize trade and production, abolish profit, and base every transaction on its cost in labor, without regard to the results of that labor.

Now, as I understand supply and demand in the market, they are not dead-weights of matter, like Demand. a rock crushing my finger; they are forces like the gravitation controlling the rock, and which I must recognize if I would keep my finger whole and escape mental distress. These forces affect laborers and capitalists, producers and consumers alike, and they are the strongest influence in fixing market-prices. In fact, we may consider them the only forces present and active when the selling price is fixed; all other forces must have been transmuted before price can be fixed. It is not easy to comprehend these forces, for Professor Cairnes, while saying<sup>1</sup> "demand and supply are essentially the same phenomena regarded from different points of view; consequently general demand cannot increase or diminish except in constant relation with general supply," yet says also that they are "not independent economic forces." Mr. Mill says:—

"Demand and supply — the quantity demanded and the quantity supplied — will be made equal. If unequal at any moment, competition equalizes them; and the manner in which this is done is by an adjustment of the value."<sup>2</sup>

Yet every merchant knows that competition is only one of many elements which enter into an "equation" of supply and demand. I dwell on this, not to show the differences of professional economists, but to illustrate

<sup>1</sup> Leading Principles of Political Economy, p. 42.

<sup>2</sup> Political Economy, book iii. chap. ii. § 4.

the subtlety of these controlling influences of the market-price of labor and commodities. These influences are quite beyond the comprehension of a trades-union as such. We may say that a powerful Union would employ a leader of great capacity, who would construe these influences properly; but the very process which made him a Union-leader would unfit him to be a judge of the markets. A general can lead an army to victory; but generals, as a class, have been poor judges of national policy, in war or peace. The Union-leader may extort an advance of wages through the force of his followers; but this advance in price must be converted into permanent exchange-value in order to be of benefit to the laborer. One possible element of this value is the very labor of the Unionists themselves while they were striking for the advance; or the advance may have carried the products out of relation to all other values. The only solvents of these delicate problems are the principles of supply and demand I have stated. They must be interpreted by social agents with the highest faculties and the best power of discrimination. If Society prove one of these men and find him trustworthy, it must keep him and allow him full play. Like tea and wine tasters, they must not be argued with, nor forced into unnatural decisions by the power of numbers. If it be said that a Unionist can perform this delicate social duty, let us hear what Mr. Thornton<sup>1</sup> says in this regard:—

“They [trades-unions] tell us plainly what they aspire to is ‘control over the destinies of labor;’ that they want not merely to be freed from dictation, but to dictate,—to be able to arrange the conditions of employment at their own discretion.”

<sup>1</sup> On Labor, pp. 193, 194.

Mr. Applegarth, one of the most accomplished Unionists, says : —

"The business of the employed is to look after their own interests ; leaving employers, customers, and the rest of society to look after theirs and to shift for themselves as they best may."

Let us turn from the economical bearing of the Union system to consider its social tendencies.

"In theory, too, the constitution is unalloyed democracy ; all functionaries are appointed and all laws enacted by universal suffrage, and the same breath which has made, unmake both. . . . In every trades-union, the actual occupants of office, provided only they be tolerably firmly seated, are almost certainly in possession of *quasi* dictatorial authority."<sup>1</sup>

This pure democracy of the Union combination ends in despotism, as unlimited democracy has always ended. As is well known, Broadhead carried the Saw Grinders' Union through one and another form of oppression, until several murders were committed. I do not allude Union to this to charge the Trades-Unions with murder, practices, but to indicate the drift of their organized life. Every Union murders some social principle in its efforts to give its strength an unnatural momentum to increase its weight. From the nature of things it must be so. "Intimidation," "picketing,"<sup>2</sup> "rattening,"<sup>3</sup> "making

<sup>1</sup> Thornton : On Labor, pp. 205, 222.

<sup>2</sup> "Picketing consists in posting members of the Union at all the approaches to the works struck against, for the purpose of observing and reporting the workmen going to or coming from the works, and of using such influence as may be in their power to prevent the workmen from accepting work there." — *Report of Royal Commission*, 1869, clause 68.

<sup>3</sup> Rattening defined by the Royal Commission is "the abstraction of the workman's tools, so as to prevent him from earning his livelihood until he has obeyed the arbitrary orders of the Union." It is said to be lessening, and to be discountenanced by the best Unions.

work," are all forms of social despotism which would be practised by hardly one of these Unionists for his own advantage. "Making work" requires some special consideration, for it is a most important motive in the Union methods and regulations :—

"A bricklayer's assistant, who by looking on has learned how to lay bricks as well as his principal, is generally doomed nevertheless to continue a laborer for Work life. [Bricks beyond Lancashire are excluded.] explained. . . . To enforce the exclusion, paid agents are employed; every cart of bricks coming toward Manchester is watched, and if the contents be found to have come from without the prescribed boundary, the bricklayers at once refuse to work. . . . A master-mason at Ashton obtained some stone ready polished from a quarry near Macclesfield. His men, however, in obedience to club rules, refused to fix it until the polished part had been defaced, and they had polished it again by hand, though not so well as at first! . . . On the importation of worked stone into Barrow, the lodge demanded first that the bases should be worked over again; secondly, when this was refused as an impossible interference with the architects' design, that as much time as would have been required to rework them should be occupied by the Barrow masons in standing over them. . . .

"Not besting one's mates" has by several Unions been made the subject of special enactment. 'You are strictly cautioned,' says a by-law of the Bradford Bricklayers' Laborers, 'not to overstep good rules by doing double work, and causing others to do the same, in order to gain a smile from the master. Such foolhardy and deceitful actions leave a great portion of good members out of employment. Certain individuals have been guilty who will be expelled if they do not refrain.' The Manchester Bricklayers' Association have a rule providing that 'any man found running or working beyond a regular speed, shall be fined 2s. 6d. for the first offence, 5s. for the second, 10s. for the third, and if still

persisting shall be dealt with as the committee think proper ;' as also shall be 'any man working short-handed, without man for man.' . . . At Liverpool, a bricklayer's laborer may legally carry as many as twelve bricks at a time ; elsewhere ten is the greatest number allowed. . . . During the building of the Manchester Law Courts, the bricklayers' laborers struck because they were desired to wheel bricks instead of carrying them on their shoulders." <sup>1</sup>

Mr. Thornton says these regulations are not peculiar to one trade, but are the same in spirit in all the trades. Professor Cairnes, who treats Trades-Unionism with strict justice, condemns this whole business in the strongest terms. He not only anathematizes Unions, but strikes at the principle wherever it appears :—

"The purpose and general tendency of these regulations cannot be mistaken. Their object is, by enforcing uneconomical methods and proscribing recourse such non-sense. to the facilities offered by Nature and circumstances, to create a necessity for work which otherwise would not have existed. The code is from first to last an example of that view of political economy of which the culminating triumph would be the exclusion of the light of the sun. . . .

"The very meaning of industrial progress is the increase of the productive result in proportion to the labor undergone ; while the direct tendency of the rules in question is to increase the labor undergone in proportion to the productive result. . . . The view which has suggested them, far from being confined to the working classes, has, as we have seen, found for its champion so able and dispassionate a writer as Mr. Thornton, who, while denouncing in language which certainly leaves nothing to be desired in point of vigor and heartiness those elaborate contrivances for rendering man's position in the world worse than it might be, has himself furnished the

<sup>1</sup> Thornton : On Labor, pp. 344-46.

theoretical premises which would be quite sufficient, if only they were well founded, to justify the most extravagant of the acts which he reprobates. It must also be frankly confessed, with reference to this as with reference to other parts of the Unionist policy, that the better-off classes of society are by no means entitled to plume themselves at the expense of the workmen. In the practice of the legal profession, *e.g.*, there would, I fancy, be no difficulty in finding usages, not yet perhaps quite obsolete, conceived in this same spirit of aggrandizing a calling by ‘making work’ for its members. One has only to watch the progress of an ordinary chancery suit, or to read through an ordinary deed, to find examples which would scarcely lose in lustre by being placed beside some of the brightest of those furnished by the Manchester Bricklayers’ Association. What, indeed, is the opposition given to law reform by too large a section of the legal profession but a flagrant example of this very spirit, — a readiness to sacrifice the interests of society at large to those of the legal profession ; to arrest the progress of social improvement in order that work may be found for a few lawyers the more ? The notion of aggrandizing one’s order by ‘making work’ for it may assume in Trades-Unions codes a somewhat more extravagant and grotesque form than elsewhere ; but the principle itself is deeply embedded in the practical modes of thinking and acting of nearly all classes, and it therefore needs all the more to have its true character and tendencies laid bare without reserve, and to be duly stigmatized as the most flagrantly anti-social of all the plans of conduct by which, at various times, different classes of society have attempted, in disregard of the general social weal, to advance their several interests.”<sup>1</sup>

Political economy and social philosophy join to echo these noble words which strike to the root of this abounding social evil. Class-selfishness, whether in employer or employed, here puts on a physical form, and

<sup>1</sup> Cairnes : Leading Principles of Political Economy, pp. 309–12.

in every movement wounds the body politic which gave the class with its members life and support. Note how the rules against "besting one's mates" degrade the individual workman. If there is one incentive more than another which the laborer needs and must need so long as humanity toils, it is a lifting power within himself, the force which shall take him out of

Unions  
crush all  
artistic  
impulse.

the necessary repetition and iteration of his work. At best he is too prone to imitate, to follow carelessly, and to lose the artistic im-

pulse which can be given to the stroke of a spade as well as to the thrust of a chisel. But these abominable rules take away the last hope from a servile monotonous copyist. Take emulation out of the world's life, and duty would be left to carry forward humanity; but it would be over a dry and dusty road, through a dead level which would admit no individual men and women. Or rather let us turn to the figure which has so often been clothed with the experience of humanity: the river of individual souls, the stream of life, bright in action, bounding forward, sometimes eddying but always moving, would droop into a sluggish canal which would indeed bear the mass onward, but on through the dead, still ruts of necessity.

The object of society, governments, institutions, groups, and classes is to make better men and women; to give them, each in his own nature, a freer life and higher aspirations. The vice of Unionism and every such

They don't  
create, they  
grind out.

stratification is that the pressure of the whole mass is inevitably exerted on each member to squeeze him into a mere unit of pressure,—a pressure to be exerted upon another class of persons. Their method of getting more is not to create more,

but to grind more out of some other class. This is the direct result of all class aggregation. It is not the fault of these unenlightened workmen that they take up these primitive methods which belong to the stratifying age of development,—that age which prevailed before society had learned that if it would raise any it must raise all; but men who have studied the philosophy of history ought to know better than to look for a higher social or individual development through any such system of antiquated social methods.

Mr. Thornton's labored and studied argument is not animated by any narrow spirit; it is always generous. The melancholy reflection remains after reading it, that here is a man educated under the best English influence, capable of handling his theme, who has no apparent conception of the differentiation of social forces. All force is one, or may be one, we are told; but the modes of its manifestation are very different. There are some modes in which it draws, in others it pushes; and social and economical forces are put forth in the same manner. If any of the philosophers who dream that social life can be maintained and elevated by massing classes to struggle one against another, will draw a silk handkerchief through a tailor's thimble, and then try to push it through, they will see what I mean by differentiation of social force. Apply this mass-force, instead of a grouping, individual force, to the illustration of the cloth dressers.<sup>1</sup> We should have had a union of dresser tenders, who would have prescribed 150 cuts or 125 cuts, if they fancied, as the maximum, and would have ordered a strike to enforce it. Then, if the point were important enough, the mill owners would

<sup>1</sup> *Infra*, p. 255,—where relation of Labor to Product is stated.

have "locked out" all the operatives until the dispute should be settled. Then, the process of capitalizing being thus suspended, after a sufficient waste of labor and capital (for opportunity never returns, even through "making work"), the handkerchief would have been in some way driven through the thimble, and orderly work would resume.

The power to strike must involve the power to resist.

"During nearly half a century all signal triumphs have been on one side, all substantial success on the other. In History all those extensive and prolonged strikes whose duration proves that though strenuously maintained they were likewise firmly resisted, the men have invariably put forth their utmost strength merely to find that strength miserably inadequate. . . . The Manchester Builders' strike in 1833, when £72,000 of wages were foregone; the 'terrible' strikes of the Preston spinners,—first in 1836, when thirteen weeks of voluntary idleness cost the men £57, 200, and secondly in 1854, when 17,000 persons underwent all the misery implied in their remaining out for thirty-six weeks and giving up £420,000 of wages; the engineers' strike in 1853 of fifteen weeks duration, in which £43,000 of wages were sacrificed; the still more memorable strikes of the iron workers of Staffordshire and the North in 1865, and of the London tailors in the summer of 1867;—these are but a few of the more salient among the many instances in which terrible suffering and heroic endurance on the part of the men have terminated in their eventually capitulating at discretion, and returning to work on terms little if at all better, and not seldom worse, than those against which they had revolted. . . . On all great occasions the masters have been the victors, yet every concession made has been made to the vanquished. In all trades under the influence of Unionism, wages, though subject to occasional fluctuation, have, ever since that influence began to make itself felt, been on the whole continually rising. In some they are twenty-five or thirty, and in one

fifty per cent higher than they were forty years ago [written in 1868], and in all the average rate is probably at least fifteen per cent higher than it was then.

"Much as they [i. e. employers] might prefer standing alone, they are beginning to understand that they may not be able to stand at all unless together. They are becoming aware that the continually growing force of their men's unionism is not to be resisted by them without a corresponding unionism of their own. . . . Among employers there was not until the other day, if indeed there be really even yet, any society of masters of a permanent character which, either in its composition or its objects, bears more than a faint resemblance to what workmen understand by the term Trades-Union. . . . Resolution on both sides being equal, victory would infallibly be with the superiority of wealth ; and however great might be the pecuniary resources of the men, those of the masters would be many times greater, and better able to bear the drain upon them. . . . In all their disputes employers may always have the employed at their mercy, by adopting the same tactics and persisting in them as doggedly."<sup>1</sup>

In this country the history is not different, as the Massachusetts Bureau of Labor Statistics, in their thorough report, show in 159 strikes.<sup>2</sup>

Mr. Thornton gives the victory to the Trades-Union principle because wages have advanced during the forty

<sup>1</sup> Thornton : On Labor, pp. 252-54, 267-69.

<sup>2</sup> Causes of strikes : to secure better wages, 118 ; to secure shorter days, 24 ; to enforce Trades-Union rules, 9 ; resistance to employers' rules, 5 ; against introduction of machinery, 3. Results of the same : unsuccessful, 109 ; successful, 18 ; compromised, 16 ; partly successful, 6 ; result unknown, 9 ; contest still pending, 1.

"In the various Fall River strikes, to which we again refer as the most important movement of this kind in the State, the enormous sum of \$1,400,000 in wages was voluntarily forfeited by the idleness of the operatives. . . . In more than sixty-eight per cent of them, loss in wages, varying with the extent and duration of the strike, has been submitted to without any material benefit accruing to offset it." — *Report, 1880*, pp. 65-68.

years ending with 1868. He assumes that this advance, ranging from fifteen to fifty per cent, has been wholly obtained by Unionism. This is easily disproved. Wages were advancing in the whole civilized world during that period, especially under the impulse of the gold discoveries after 1848. Mr. Brassey's formula that "the cost of labor was the same, at different wages in different countries;" that "for the same sum of money the same amount of work was everywhere performed,"—has been severely criticised, and was no doubt pushed too far. There is a close relationship between his two terms, but not such an arithmetical proportion. Arithmetical restraints are too rigid for problems which are both economic and social, and contain some indefinite factors. The Malthus theory of population illustrates this. The senior Mr. Brassey probably obtained his results by using skilled laborers of England as against those of other countries unskilled in his particular employment of railway building. The measure of "cost" is not exactly the same. But Mr. Brassey gives much evidence showing the rise of wages where no Unionism has prevailed. Enterprise and social activity advance wages, with or without unions of employers or employed.

"The progressive state is, in reality, the cheerful and the hearty state, in all the different orders of society. The stationary is dull, the declining melancholy." These axioms of Adam Smith are abundantly verified by the practical experience of railway contractors. The advance of wages which has occurred in such cases, from the natural operation of the laws of supply and demand, would satisfy the most golden conceptions of the working-man."<sup>1</sup>

<sup>1</sup> Brassey : Work and Wages, p. 34.

Quoting Phipps's report on the Industrial Classes in Würtemberg, he gives the following "natural" advance :—

"As a general average, sixty-nine per cent may be taken as the increase in the daily wages for the out-door laborers. . . . Exports from the United Kingdom last year reached the value of three hundred and nineteen millions sterling, and the greatest increase took place in those trades in which the wages had advanced most. . . . A considerable portion of the sum subscribed to India railways has been paid to native laborers, and the result has been that in the districts traversed by these railways wages have advanced within a short time no less than one hundred per cent. . . . At M. M. Schneider's, without the assistance of a Trades-Union, the working people have obtained during the last seventeen years an augmentation of wage of thirty-eight per cent. In England, in the corresponding period, the most powerful of all the Trades-Societies, with an accumulated fund of £149,000, has found it impossible to secure any increase in the earnings of its members."<sup>1</sup>

The assumption of Mr. Thornton and others that all or nearly all advance of wages is obtained directly through the efforts of Unions is without foundation. I think it could be proved that the possible advance in the prosperous years from 1850 to 1872 would have been greater under the natural laws of the market than that actually obtained. But that is not within our present purpose. The examples given by Mr. Brassey, which are the economical results under the natural grouping power of society in various countries, can be paralleled by plenty of experience among employers of labor.

The remark is common among theorists and the superficial observers of these questions, that the employers do combine, and that laborers must therefore combine.

<sup>1</sup> Work and Wages, pp. 44, 50, 57, 161.

This statement reveals absolute ignorance of the tremendous forces which underlie the market, and which manifest themselves in the true economic laws controlling social development in the direction of production and trade. Men like Brassey in England and Vanderbilt in America did not work out their great commercial enterprises by combining capitalists or by oppressing laborers, whether these latter were in or out of the combination. These capitalizers represented a great social need, and they moved capital and labor in harmony together to accomplish the works which that need demanded.

"There remains of course to be noticed, the competition of the employers. This is the sole reply of the other side to all the reasons just mentioned. No doubt the influence of this competition is very great ; without it the workmen would be (what they only occasionally are) at the mercy of the capitalists. But the question is, whether its influence is so great as to counterbalance all else on the other side, and establish an equality. Now this competition of the employers for the workmen is subject to two very important qualifications. The first is, that there is a universal and irresistible tendency in all employers, which (as Adam Smith shows) is much more powerful and efficient in the smaller class, —capitalists and sellers as against the workmen and the public, —*not* to raise wages or lower prices. This is the 'silent combination' which needs no formal expression, and generally becomes a point of honor. . . . There is a second very important qualification, also, which neutralizes this competition of the capitalists with each other ; this is the competition of the workmen with each other. Just as, if left quite to itself, there may be a tendency among employers to raise wages by bidding against each other for 'hands ;' so there is a strong, or a stronger, tendency among the employed to bid against each other for employment. Sometimes, if markets are very brisk,

capital seeks labor; but more often in this country labor seeks capital.”<sup>1</sup>

Mr. Harrison differs from Mr. Thornton in his estimate of the “silent combination” of employers, and of their tendency to compete with each other.

“The great ambition of every employer is to cease to be an employer. He busies himself unceasingly for nothing so much as to be able the sooner to leave off business. By what course he grows rich enough to retire, or at least how much that course may interfere with the progress of his fellow-employers, he cares very little. If anything, he rather plumes himself than not on cutting out his rivals.”<sup>2</sup>

They are both right in their statements, but not very sagacious in penetrating to the controlling principle beneath. There is a silent tendency in employers as well as all buyers to keep down prices. “Nought, Competition and Combinations saith the buyer; but he goeth his way and boasteth.” But how can this tendency be competition com- most surely and economically overruled? Is it pared. by limiting and hampering the production out of which wages must be made, or by “making work” to be robbed out of society? Any steam pilot will say there are two methods of carrying a number of craft through a crowded channel. With one, they timidly reduce speed; their courses assimilate more and more, entangle more and more, and finally they helplessly drift out of the confusion: this is combination. With the other, they cautiously apply more steam, use the increasing speed to guide the swifter craft past the slower, and thus sail out of the complication by exerting the best force of each individual vessel: this is competition.

<sup>1</sup> F. Harrison in Fortnightly Review, iii. 48.

<sup>2</sup> Thornton: On Labor, p. 265.

Classes exert themselves to obtain privilege and prestige from society; they never try to elevate their individual members one above the other. The very selfishness which exerts itself against the whole society is doubly selfish when it is turned against their individual fellows. This principle is human; it is not peculiar to labor or capital. As both Mr. Harrison and Mr. Thornton have demonstrated elsewhere, capital has the most power in a struggle; then the true resource of the laborer as well as the natural right of society is to stimulate the different groups of capital and capitalizers to put forth all their powers against each other in friendly emulation, and thus to forward all the craft by higher speed and more production. This simple method would attract every one, were it not for those obsolete dogmas of "rights of capital," "wages-fund," "making work," "besting one's mates," — all making one agglomeration of social tissues to be fought for by laborer and capitalist as the offal-meat is torn by hungry dogs.

The only combination which can better the laborer is the best interplay of his own active brain with his own skilled hand and his own ready tool, combined with good thrift in using the fruits thereof. His class may help him to attain these results, just as a guild of authors, railway managers, or ship captains, may help each other to improve the work of each member. But neither the class of laborer nor that of employer can help him in the long run to get more out of society than the actual speed of his craft will register in the log-book. The share of each individual is in proportion to the sum of all the speeds accomplished by all together. That share is not increased by doing less under any form of combination, whether with one tool or by anti "besting one's mates" with a million fellows.

I should not thus dwell on this "besting," but it reveals a deep principle of error in the trades-union mind. In the depths of their consciousness they feel <sup>True origin</sup> as well as think that labor does for society <sup>of laborers'</sup> more than society does in return, and that by mistake. a powerful combination labor can get back a much larger share. I have written to little purpose, if I have not shown that the opportunity to labor is a social privilege, wherever any capital — even a tool which the laborer did not invent — is involved. Society, in giving the laborer the opportunity to labor, or the employer the opportunity to capitalize, gives as much as it gets in return. Neither labor nor capital can get more out of it, except by obeying the social need more faithfully, and thereby creating more for all concerned.

Mr. Harrison is, on the whole, the strongest advocate of the Union system. He criticises it in detail, <sup>Do they</sup> but he regards it as a strong social and politi- <sup>improve by</sup> <sup>making</sup> influence to be encouraged and developed. <sup>things</sup> It is remarkable that he does not see that its <sup>worse?</sup> foundation is based on principles which would ultimately destroy that free development of the individual which is the essential pride of the Teutonic race.

"Excessive labor, irregular labor, spasmodic over-work, spasmodic locking-out, over-time, short-time, double-time, night-work, Sunday work, truck in every form, overseer's extortion, payment in kind, wages reduced by drawbacks, long pays, or wages held back, fines, confiscations, rent and implements irregularly stopped out of wages, evictions from tenements, 'black lists' of men, short weights, false reckoning, forfeits, children's labor, women's labor, unhealthy labor, deadly factories and processes, unguarded machinery, defective machinery, preventable accidents, recklessness from desire to save, — in countless ways we find a waste of human life,

health, well-being, and power which are not represented in the ledgers, or allowed for in bargains. . . . Against this state of things, as yet, the only organized protection is Unionism. It is a system at bottom truly conservative, mainly protective, and essentially legal. It is a system still quite undeveloped, and most defective, and often deeply corrupted. . . .

"This is not the place to discuss at length their [the Unions'] great deficiencies; but no man is more aware how far they fall short of what is wanted than the present writer. In the first place, they are simply a political, practical, temporary remedy for a social and moral evil. The real cause of all industrial evils is the want of a higher moral spirit in all engaged in industry alike. Social and moral remedies alone, in the long run, can change the state of things to health, and the working-men on their side have as much to learn in social and moral duty as their employers. All this (and without it nothing permanent can be gained) Unionism totally ignores, and even tends to conceal and choke. Hence, a keen spirit of Unionism often blunts the members of a strong association to their own duties and to the higher wants of their class. . . .

"To save the people from the immediate injuries of bad government is sometimes the very condition of all other effort towards improvement. If working-men, holding by their Union for simply protective purposes, would turn towards other measures to improve themselves, to learn greater self-control, higher education, and purer domestic life, their ends would be gained."<sup>1</sup>

This was written twelve years ago. The opinion lately expressed in the *Times* shows that Mr. Harrison's hopes have not been appreciated by the Unions, and that they are still social oppressors.<sup>2</sup>

<sup>1</sup> Fortnightly Review, iii. 52-54.

<sup>2</sup> Yet hitherto these bodies have claimed the right to determine to how many persons a man skilled in a particular trade shall impart his knowledge. They have thus put obstacles in the way of the young man

The reason that the Unions have not developed a higher spirit and a better social direction is easily found. They cannot develop it. Arbitrary power, the basis of which is in the greed of each man to get more, cannot develop into high moral and social ends. We might as well ask the Emperor of China to rule through a parliamentary ministry and opposition. If he were the most enlightened and benevolent ruler on earth, he could not do it.

The long list of grievances which Mr. Garrison brings against capital and employers is a sad tale. Even if these occurrences are exceptional, they are bad enough; but if constant, they are social evils, and should be cured socially, and not merely serve to aggravate an economical war between classes on the rate of wages. The economical discussion of wages is a matter of contract; and such grievances as "children's labor, over-laborer's extortion, confiscation," are matters of social injustice, for which the whole body of society is responsible. Good fathers used to kill their sons when they displeased paternal authority. That was a poor kind of discipline; it was not cured by a revolt among the sons of all families. Society altogether corrected it, as it has done other kinds of injustice.

who wishes to learn a particular trade, and have interfered with general liberty as well as assailed the general principle that the public are entitled to have work done by all who are competent and willing to do it. The tendency of the Trades-Unions organizations to encroach on individual liberty is, in truth, the great danger of their development in this country. With all their folly, there is so much of sober sense and business capacity about their proceedings, that we do not believe they will continue permanently indifferent to economic principles. The difficulties between them and capital may be adjusted on some common ground; but if they would assure the public that their power and influence will be really salutary, they should be careful to show a respect for individual liberty which the history of Trades-Unionism has not hitherto evinced. — *Weekly Times*, Sept. 21, 1877.

I would not deny the right to "strike" abiding in every laborer; this is his last right of resistance against oppression. But socialists and philosophers should remember this is not in essence a mode of defence ; it is offence. It cannot be justly put forth at will, but only to right a wrong. In the nature of things, a combined cessation from labor is an organized attack on society at large. It may be none the less necessary or justifiable, but it is a revolutionary right. None of us would resign our individual right of revolution in civil affairs; but it must be remembered that this right can be exercised only in the gravest emergency. So socially and economically the right to strike is an offensive defensive, to be put forth only when other methods of obtaining just reward have failed. When that time comes, it will need only that organization which is always ready in the hearts of the people. When revolution is truly necessary, it trembles in every breeze, and finds its own opportunities to whirl into a tornado.

Natural  
right to  
strike de-  
fined.

Modern civilization has gradually abandoned the methods of force by which the world worked out its life when it knew no better. It is not by aggregating the force of class against class that we may live a larger life, but by stimulating the whole individual force of each man, laborer or capitalizer, and regulating the whole movement by justice.

The word *plunder* would be an unjustifiable epithet, did it not represent the avowed principle underlying the motive of the ordinary strike. Mr. Applegarth (one of the most judicious and enlightened of his class) says : "The business of the employed is to look after their own inter-

Self-inter-  
est becomes  
tyranny in  
the mass.

ests, leaving employers, customers, and the rest of society to look after theirs, and to shift for themselves as they best may." Society allows each member to act for his own interest, for it cannot look into the motives of each individual breast. But an organized effort to establish the multiplied self-interest of a class is a tyranny which cannot long exist in the present light of the world. This is not a social right; it is the use of class-strength to promote social oppression.

For who suffers, while this unnatural contest goes forward? Modern society is so delicately organized, that it requires every effort in kind which all its members can make to forward its orderly movement. A strike not only stops wages and wastes capital, it kills the life of the whole body while it lasts. The laborer smokes his pipe in idleness, or tramps about in sullen listlessness, while the war between labor and capital wrestles itself out. What right did his self-interest acquire for him in the tobacco that he smokes, or in the sewing-machine which sewed the boots in which he tramps? This limitation does not cut off the final right to strike, for that must remain in all society,—like the right of revolution under any and all governments; but it essentially limits its just exercise. Labor is social; when it from due necessity becomes unsocial, it becomes barbaric. Labor, capital, capitalizing, must unite in orderly movement, or the harmony of modern and civilized life jangles into barbarous war.

When Associations have grown up to control the action of laborers on the one hand and of capitalists and employers on the other, there would naturally be some mode developed, some tribunal formed, by which the contests between these bodies could be governed, or at

least modified and directed. Boards of arbitration have existed in France and Belgium for a long time. Arbitration is only Con- In England they have been in vigorous opera- ciliation. tion for some twenty years; in this country arbitration as such has been a failure.

"Industrial arbitration is both the name of a principle and the specific application of that principle. As a principle, arbitration is a method of settling disputes or differences between employers and employed, by a reference of the matters at issue to a Board composed of representatives of each of the two parties to the question, the representatives of each being elected or appointed by the parties themselves; the Board to have power to hear testimony and decide the question, or, in the event of a failure of the Board to decide, with power to call in one or more parties, whose decision in the case shall be final and binding on both parties represented."<sup>1</sup>

The above definition by Mr. Weeks, who had ample experience in the matter, shows what the ideal arbitration would be if it could be reached. We cite him again:—

"Industrial conciliation differs widely from industrial arbitration, though the object of both is the same,—the prevention and settlement of disputes and differences between employers and employed. Conciliation is not formal. It does not sit in judgment. It does not necessarily imply a board or court, although the best results follow when the conciliation is systematic, under the influence, direction, and authority of a board."

Mr. Weeks is here defining a course which has often been followed. A committee of operatives, or their friends, is appointed, and called a "board of arbitration;"

<sup>1</sup> Report of Massachusetts Bureau of Labor Statistics, 1881, p. 6.

it investigates, hears, and advises, and its results are called arbitration. I should go farther in the analysis, and reach a conclusion somewhat different. There is a distinction, but not a wide difference, between the actual, accomplished results of all these boards and committees. All arbitration in this country and in England has been in substance conciliation or a failure to conciliate. The final and binding decision has not enforced itself in any sense which prevails in the arbitration between ordinary disputants.<sup>1</sup> The laborers and sometimes the employers would not submit in good faith to the decreed judgment, the legitimated will, of arbitration. The failure was not the fault of these particular individuals; it was inherent in the system which produced the circumstances. The dispute was founded in force, and must finally be settled by force either latent or manifest. Nevertheless, it was a mode of living in decency if not in harmony; and many strikes have been prevented, much strife and bitterness allayed, by these boards of arbitration, which should rather be called "Conferences for Conciliation."

Since the substance of this treatise was written, there has been established a successful conciliatory arbitration in the city of New York, which singularly works out in accomplished fact the principles it lays down. Straiton & Storm, extensive cigar-manufacturers, after bitter experience in labor struggles (in one strike the firm lost \$40,000), formed with their own operatives a Board, under the following preamble:—

<sup>1</sup> "In labor questions, so far as my own experience goes, arbitration is never a wholly satisfactory process. I have sat more than once as umpire, and never without a feeling that I was asked to pronounce a judicial decision in a matter in which really there is no law to appeal to. There is usually not much doubt as to the facts." — *Lord Derby*.

"Reviewing the past four years, one cannot help but notice the injurious effects produced by strikes, both to the employer and employé, and particularly to the latter class ; and taking into consideration that these strikes invariably ended in failure, resulting in a gradual reduction instead of an advance in wages, and that by reason of these strikes an abundant quantity of unemployed labor of all other kinds had been drawn into one branch of industry, thus considerably increasing the productive force from year to year, — one should naturally come to the conclusion that plain common-sense should dictate to every one having at heart their own interest and welfare, that the proper time has come for the devisement of practical measures to protect the interest of both parties concerned, thus effectually and permanently closing the chasm now existing between employer and employé. .

*"Cigar-Makers' Board of Arbitration.* — There shall be a board composed of four cigar-makers, one packer (to be elected etc. ; each department elects delegates annually, and delegates elect from their number to the board), three foremen appointed by the firm, and one member of the firm, . . . to whom shall be submitted all questions of wages, and such other things as may be in dispute.

*"Packers' Board.* — There shall be a Packers' Board, composed of two packers, one cigar-maker (elected as above), the packer foreman, and one member of the firm.

"One of every fifty employés shall have the privilege to appear before the board to represent their case, but in no case shall such representation be less than three ; . . . may present their views in writing or otherwise. If verbal, they shall confine themselves to the subject, and not occupy more than fifteen minutes. Such representatives shall not be members of the board or delegates."<sup>1</sup>

It will be observed that each of these boards consists of *nine* members, to which the laborers appoint *five* and the capitalizers appoint *four*. The laborer holding the

<sup>1</sup> Report of Massachusetts Bureau of Labor Statistics, p. 64.

casting vote is taken from the other department whose interests are not in dispute at the moment. The employés, without any dictation from Straiton & Storm, made the following report of proceedings :—

“The board, which has been in existence since January, 1879, has been used four times to date (Nov. 29, 1880), with the following results :—

“1. On April 26, 1879, when six different kinds of hand-made cigars were changed in their shape, the men making them claiming to be entitled to an advance of \$2, \$1.50, and \$1 per thousand respectively. *Result* : An advance of one dollar was granted on four kinds ; two kinds remaining at the old standard.

“2. On July 12, 1879, when the cigar-rollers asked for an advance of fifty cents per thousand, — which was granted.

“3. On Oct. 11, 1879, when the bunch-makers asked for an increase of twenty-five cents per thousand, which was rejected ; but an advance of ten cents was granted on some, while the others remained at the old price, — which failed to give entire satisfaction to *all* of that branch.

“4. On April 20, 1880, when the hand cigar-makers asked for an advance of one dollar per thousand, the rollers fifty cents, and the bunch-makers twenty-five cents. *Result* : The hand-made cigars received an advance of fifty cents per thousand, with the exception of one kind, which remained at the old price ; the rollers received an advance of forty cents, and the bunch-makers ten cents, per thousand.

“The Packers’ Board has been used on July 12, 1880, when an increase of seven and a half cents per thousand was asked for to establish former price. The demand was granted.

“We, the employés of Messrs Straiton & Storm, are convinced that the Board of Arbitration has been a success, and that the objects which it had in view, and which led to its formation, have been fully realized, and that it has worked to our entire satisfaction.”

These facts should be studied carefully by every one interested in these matters. Here is a distinct recognition and enforcement of the principles underlying every contract between capital and labor. The capitalizers or employers first admit that there is a market value to the labor wanted for their industry; they are willing to pay that sum. How shall it be ascertained? The laborers — those interested in that enterprise, not a mass of men segregated from society and wound into a Union knot, but those workers on that spot — form a small representative body, which shall comprehend the desires of the men, with the possibilities and limitations of that enterprise. This smaller body appoints delegates, who meet the delegates of the firm; and this joint tribunal hears the direct representatives coming fresh from the workmen whenever there is cause for dispute. Here are all the advantages of local knowledge, of representation, of deliberation through delegated responsibility.

Mark, that it is a mode of conciliation, a method of bringing reason to bear on a difficult problem, and not a mere court of control. The power which all sound thinkers admit finally abides in capital is applied very gently, if at all. I cannot make this any more clear than by citing the words of the employers<sup>1</sup> themselves:

“The demand is refused *in toto*; labor strikes, and assumes a false position; capital follows by a lock-out, which is also a false position. In both cases reason has lost its sway, and passion has taken its place. . . . The employer by his upright dealings with his employés is sure to gain the respect of his workmen. He insists at all times to deal with facts, and not with visionary theories; and in a board composed of both interests, in order to work at all, either one or the other

<sup>1</sup> Report of Massachusetts Bureau of Labor Statistics, p. 71.

must have the majority. Now, the workmen would look with much suspicion upon the board of arbitration in which the employer had the majority. Say again, that the workman is naturally suspicious of his employer. He has nothing but his labor, and guards the interest surrounding it jealously. You will perceive that we have yielded the deciding voice to the workmen, and at first sight this would seem to be a weakness; but we think not. The deciding member, however, is taken from a different branch of the business, and is supposed to be impartial. . . . Our experience has been that at no time during the operation of our board have the lines been sharply drawn; or, in other words, the vote has at no time been four to five. True, it has not been as yet so severely tested as it may be at some future time, because during its existence there has been a general advance of labor."

This particular experiment may fail; but none the less will it be a step forward, a movement in the right direction. It attempts to work out each difficulty in its natural group, under the conditions which caused the difficulty. It is a social mode of working out a difference; while the ordinary trades-union and employers' union methods first create a wide difference between two orders of society, then use force on either hand to bring the two sides together again. The one is the natural outgrowth of an ascending society; the other applies the methods of barbarism to the new forces brought in by civilization.

We must look beyond American experience and beyond the English Amalgamated Societies, wide-reaching and powerful as they are, for the final outcome of the theory that labor creates all things. We find <sup>The Interna-</sup> in the International the great association <sup>national.</sup> to which all laborers tended to be amalgamated, and

which should finally redress all their wrongs. It is true that the co-operation between the hard-headed sensible working-men of England and the more speculative theorists of the Continent was never very close or effective. Nor would I hold Mr. Howell, Mr. Holyoake, Mr. Garrison, or the constituent working-men they so well represent, responsible for the vagaries into which the International has plunged society wherever it has had full play; but a bad social dogma is finally responsible for its inevitable results, notwithstanding the worthy motives and the disinterested intentions of those who invented it. American slavery did not seem to be an overmastering political force in 1789 or in 1820; but in 1861 it became a force which shook every institution in the United States to its foundations.

The organization<sup>1</sup> of the International was begun at the London Exposition in 1862, and fairly completed at Paris in 1864. Societies were affiliated rapidly, and the first congress convened at Geneva in 1866. Delegates assembled from France, England, Germany, Switzerland, and other countries. A powerful strike was organized at Paris in 1867; and the employers yielded, believing that the whole force of all the affiliated societies had been brought to bear upon one point, and that in fact as well as in name this great Association could bring the working resources of all nations against the employers of one district. The effect of "several bills of one thousand francs each, coming from London" at an opportune moment, was very great. The imagination

<sup>1</sup> The facts relating to the International are taken from Larousse's Dictionnaire Universel articles, — "Association Internationale des Travailleurs" and "Commune," — unless it is stated otherwise.

of the employers was much impressed. It is needless to say that these anticipated economic results were never accomplished. The International never seriously attempted those great economic efforts which the English Unions honestly worked out into pounds, shillings, and pence. It never saved or spent, as the income and the funds of the Unions show that the practical Anglo-Saxon did. It was as a political or a socio-political force that the International showed its power. It is in abeyance now; but we do not know when it will manifest itself again. A false social principle may at any time show itself, and result in either economic or political disaster, as the case may be.

In 1868 and 1869, the society in France was invaded and virtually taken possession of by Blanqui and his followers of the socialist or communistic school,—“the Commune,” in short. They proposed to overturn not only the empire, but all governments based on the present social order. They would substitute for this a new régime, recognizing individuals and individual rights only. The Emperor Napoleon, whose political digestion was very catholic, sometimes oppressed and sometimes coquetted with these associations. It is stated as proved definitely, that about this time “the International included some Bonapartist agents, apostles openly or in secret, but very zealous for that grotesque thing they call imperial socialism.”

The aims of the reformers extended and their sphere widened; for at the Bâle congress in 1868 there were assembled Russians, Austrians, North Germans, English, Spanish, Italians, and French. We will now examine these aims as stated in their own language, carefully.

collected by Mr. Testut.<sup>1</sup> In the preamble to the constitution they say :—

“The subjection of the laborer to capital is the source of all servitude,—political, moral, and material; for this reason the economical emancipation of laborers is the great end to which every political movement should be subordinated.”

In the Bâle congress they abolished the presidency as a monarchical principle :—

“We demand direct legislation by the people for the people ; the institution of collective property in land ; the abolition of the right of individual inheritance for capital and tools ; the establishment of co-operative workshops ; the organization of instruction,—scientific, industrial, etc.,—to be given to all without distinction ; taxes to be laid solely on wealth, etc.”<sup>2</sup>

“Inheritance is the chain of the slavery of the peoples, the source of quarrels, chicanery, etc. It has produced the monster we call selfishness (*l'égoisme*).”<sup>3</sup>

In writing of inheritance it is said :—

“Either solidarity is a right and a necessity, or it is a chimera. If the first, we must embrace it with confidence ; if the second, we must go back to what they call individual liberty,—that is, to egoism, to exclusiveness, to division of interests, to the narrow and exclusive interests of family and of patriotism.”<sup>4</sup>

“Everywhere the International at its foundation finds only the political organization of the church, the monarchy, the aristocracy, or the bourgeois ; the last, especially the radical bourgeois, was the most human ; but all equally rest on the exploitation of the working masses, and only dispute the monopoly of that exploitation.”<sup>5</sup>

<sup>1</sup> Oscar Testut : *L'Internationale*, Paris.

<sup>2</sup> *Organe officiel des sections Belges*, 1869.

<sup>3</sup> *L'Égalité*, Jan 23, 1869.

<sup>4</sup> *Progrès du Locle*, 1870.

<sup>5</sup> *L'Internationale*, Sept. 5, 1869.

In crying out for revolution they claim that they do not mean barricades and the slaughter of men, but that they will convince the workmen morally, unite them politically, and then by the "irresistible pressure of collective force" they will overcome the bourgeois, as it overcame the nobility in 1789. This was said in 1869; we shall see at Paris, in 1870 and 1871, how these pacific intentions were worked out in the remodelling of a community.

In the congress at Bâle it was maintained in the discussion that individual property paralyzes the development of society and consecrates injustice and inequality. They did not finally decide at this meeting in favor of the complete abolition of the rights of testation and inheritance, but they characterized this institution as "against equality, and anti-fraternal."

The extreme tendencies of the bolder theorists of this school were embodied more fully in a subordinate society,—the "Alliance of Geneva," presided over by the Russian Bakounine, also known under the nickname of "the king of Saxony." This association was affiliated to the International by the General Council at London, in 1869. This branch society declared for atheism, the abrogation of worship, the substitution of science for faith, and of human justice for the divine. It proposed the abolition of marriage, whether it be a "political, religious, juridical, or civil institution." Bakounine declares: "I demand the destruction of all States, national and territorial, and the foundation on their ruins of the International State of laborers."

The complete union, which was to be the universal exponent of the rights of man, was divided in 1872.

The division was further widened at Geneva, in 1873. The rivalry between Karl Marx and Bakounine and others aggravated the schism.

We must now consider the history of the Paris Commune in 1870 and 1871, and bring out the part which the International performed in that monstrous Paris Commune, how tragic. And first we must separate care-related to fully, and always keep in mind, the distinction International between the *commune* proper, the municipal-

entity of Paris, and the communistic, socialistic fungus which grew out of that old idea of municipal independence. There was an intense desire among many of the citizens of Paris to free it from its close and centralized relation with the government of France. This local and historic feeling was quite irrespective of the larger question as to what that government should be,—monarchical, republican, or imperial. In one of their first manifestoes, published in March, 1871, the Central Committee say:—

“The first work of those whom we elect should be the Old Paris discussion and the drawing up (*rédaction*) of their municipal charter, of that act which our ancestors of the middle ages called their *commune*. This done, we must take measures to compel the central power, *whatever it may be*, to recognize and guarantee that statute of the municipal autonomy.”

This strong passion for municipal self-government, this historic sequence, that bound the Paris of the boulevards and the faubourgs to the old municipality which had been gradually overlaid by the centripetal pressure of France, was the foundation on which the Commune of 1871 was built. It is impossible to comprehend how so great a city could be administered by

so small a mob, if we do not consider the extent and power of this underlying idea. "The Central Committee of the National Guard, or of the Republican Federation of the National Guard," was appointed in December, 1870, and succeeded to an earlier organization which dated from September 4. In January, 1871, its organization was completed, and it began to give general orders to control the battalions and even to assume the functions of the mayors of the districts, — the true basis of the Commune, such as it was, — and to substitute its authority for that of the municipalities. The communication with the different battalions of the Guard was "most frequently through a delegate of the International." The mould into which this new authority was cast was the old municipal institution of the *Commune*; but the force which impelled it was altogether modern and came from the working-men enrolled in the ranks of the Guard. The idea which inspired these men was the same which we have seen uttered in many forms through the International; namely, that the society which is, is wrong; it must be reorganized entirely in the interest of the laborers who produce all that society possesses, and who should therefore own the new régime.

The Commune was virtually established March 18, 1871; the elections confirming it occurred on the 26th, the day when the proclamation, already cited for its statement of the municipal idea, was issued. Another document also appeared which demanded "the organization of credit, of exchange, of association, to assure to the laborer the whole value of his labor." The men who issued these declarations were the ruling spirits who

How International controlled the National Guard.

became more powerful as affairs progressed, and gave direction to the Commune. They wished "to possess themselves of the progressive movement exclusively, to direct it, and to found the supremacy of the working classes on the total abolition of the other classes." Foreigners were admitted to the Commune under the pretext that the new harmony had called into being a universal republic, of which the observers say: "It was, in the existing condition of affairs, a folly and a fraud. We can see in this fact the superior influence of the International, dominating the Central Committee, which in its turn dominates the Commune."

The elections referred to were held on March 26, with the partial concurrence of the General Government, which could not prevent them. "With the consent of M. Thiers, who sought above all to gain time for the reorganization of the army, a kind of agreement was established between the mayors and the deputies present in Paris." The Central Committee was an efficient force, though often working secretly during the whole existence of the Commune. This anomalous and formless government soon drew the power of Paris into its hands, and freely administered the splendid Parisian civilization according to its own capricious will. Misguided men, starting with a blind zeal for new social and political order, dragged the sober citizens after them into the final disorder and ruin of the 26th of May. These men were many of them sincere in the belief that a new and better order could be formed through the absolute destruction of the old. Men like Delescluze,—that lofty and austere Puritan of the Jacobins,—threw some rays of bright light over the dark social abyss of the

Commune. It is not within our limits to criticise the government of France, whether republican or imperial ; but we may express the wish that it could have better understood the condition of Paris in the early days of 1871. There was an immense power in the popular zeal and devotion of the Parisians. Had the genius of the French government — whatever its form — been capable of organizing these independent forces, of giving them play in legitimate political functions, the result might have been different. Local expression would then have rendered needless the central compression of a government which could rule and reign, but could not feel or embody the aspirations and desires of its own people. Had the central power been wiser, and had it trusted the better part of the people of Paris more boldly, it would seem that the horrors of the Commune might not have distressed the whole civilized world.

We have no interest in the Commune except for the illustration it gives of the International, and the direct result it shows of the principles on which all such associations are founded. Take any one social right, and mass all the individuals holding that right into one power, — the result is the disintegration and total ruin of society. “The International, it cannot be denied, has played a great part, a preponderating part, in all these events [of the Commune]. Already at the time of the first siege, toward the end especially, it had a delegate in each company of the battalions of the National Guard ; and when after the eighteenth of March they elected new chiefs, these delegates presided over the elections.”

The dogma that labor creates all things, necessarily

French  
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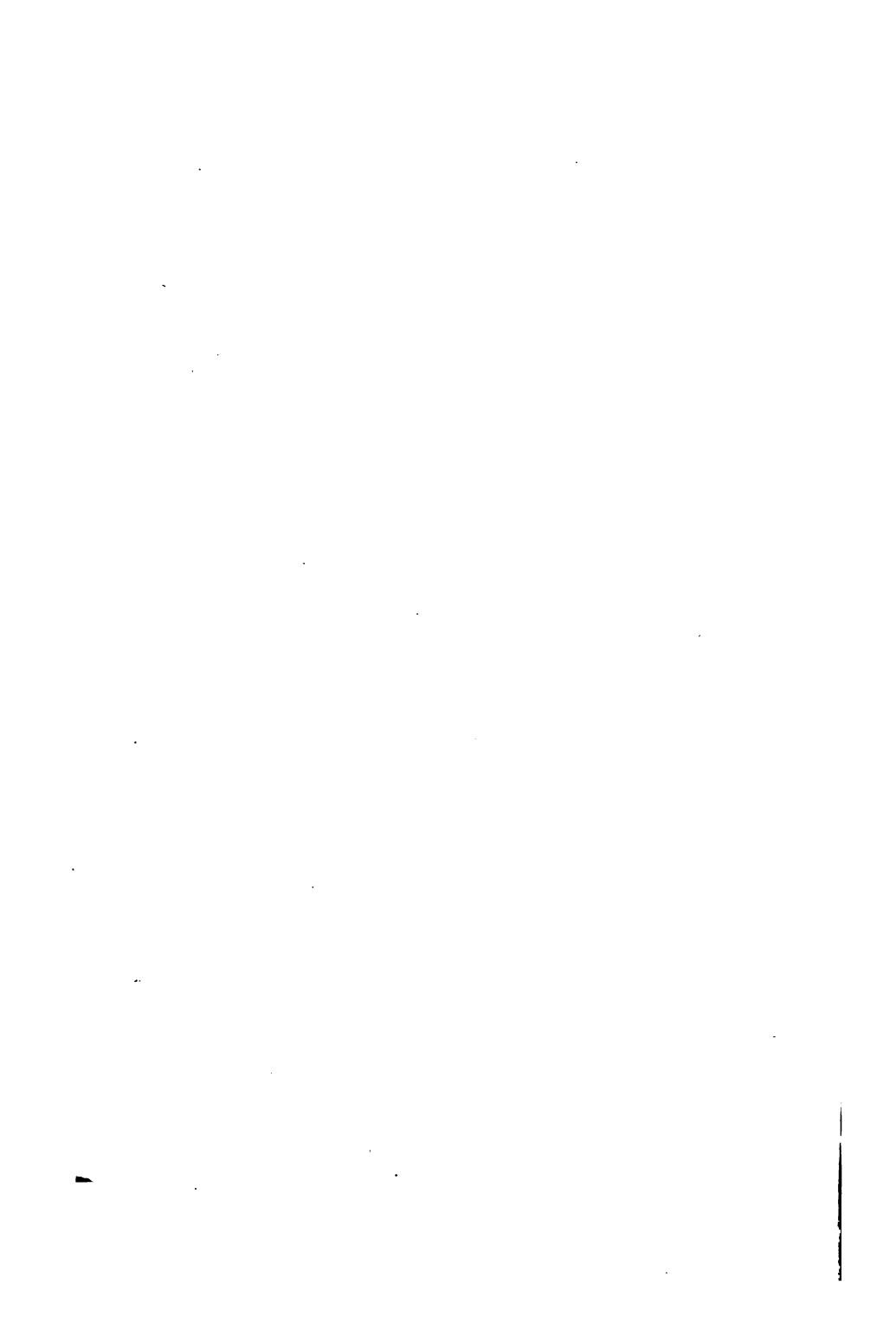
leads to the claim that all things belong to the laborers. In the name of equity, the members of the International asked for power. When in the course of events at Paris they obtained it, like Samson they pulled down the fabric of society over their own heads, as well as over the social classes they would have deposed.

Mazzini is a witness certainly not prejudiced against the rights of the individual man. He says of this insurrection : " It could only end in an explosion of materialism, and finish by accepting a principle of action which, if it had had the force of law, would have thrown France back into the darkness of the Middle Ages. This principle is the sovereignty of the individual, which can bring only an unlimited personal license, the destruction of all authority, the absolute negation of national existence."

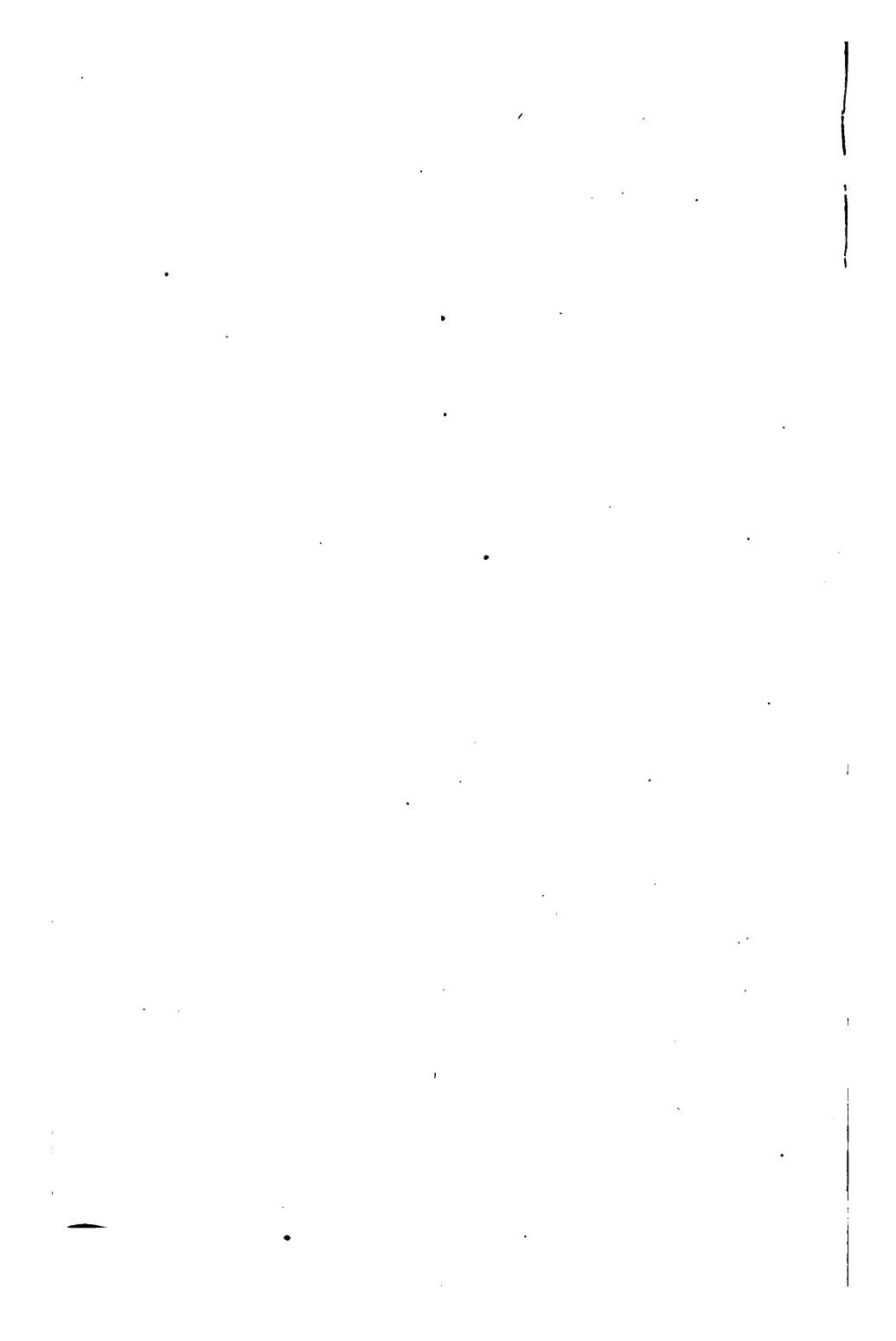
In the life of every individual man and woman the present is actual ; the past and the future are potential, in that they enter into and modify every phase of the present. The International philosophers proposed to reverse this plain truth, and turn the past and future of society into an actual possession which should be shared among the present holders of power, — the individual laborers and toilers of this day. All their theories, — common property in land, abrogation of inheritance, direct application of the machinery of exchange to the reward of labor, severance of the ties of religion and of marriage, — tended in one direction. This aim and end was the absolute freedom of the individual. He must be independent of his own past, and of the past of every other person ; he must be freed from all the ties which might bind him to the future. The Socialistic

idea unmakes itself in its very inception. In order to return the individual to the savage ideal of Rousseau, all the social factors, all the accumulated results of civilization, must be stripped off. That means waste and destruction; for society can work only through individuals, and while they are putting off the wrappings of civilized life, society and civilization perish. There is no intermediate ground. No possible individual we can conceive of, if he should combine all the powers of all the geniuses gone before, could step over from an old civilization to an absolutely new social system.

The International tried the experiment, which ended in the results so tersely and clearly stated by Mazzini. It is true that it was only partially tried, but from the nature of the case it must always be a partial experiment. The disruption of an empire affords a great field for new social forces, however misguided they may be. Perhaps as much force as can be concentrated at one point was brought into the hands of the Socialists at Paris. It acted suddenly, and almost paralyzed the society which had blindly let this force escape. But France rallied to save its centre. The sons of the soil, rooted in their country, held fast by the ties of family and religion, led by officers skilled in all the old science of war, supported by a government including the best and wisest of the land, crushed the new-made society as if it were an egg-shell. The result must always be essentially the same, however and wherever the trial is made. Russia may try it some day on a grander scale; who can foretell? But the result will be the same; for no society is possible in these modern times which does not bring into harmony the four great institutions,—State, Church, Family, and Individual.



# **CAPITAL.**



## V.

### CAPITAL.

THIS is not a treatise on Political Economy, but it is necessary to consider some of these topics in the light which that science throws upon them. I shall cite from some of its masters, that we may see the meanings they have assigned to the term Capital.

Adam Smith says :—

“ In the following book I have endeavored to explain the nature of stock, the effects of its accumulation into capitals of different kinds, and the effects of the different employments of those capitals. . . . His whole stock, therefore, is distinguished into two parts. That part which, he expects, is to afford him this revenue, is called his capital. The other is that which supplies his immediate consumption ; and which consists either, first, in that portion of his whole stock which was originally reserved for this purpose ; or, secondly, in his revenue, from whatever source derived, as it gradually comes in ; or, thirdly, in such things as had been purchased by either of these in former years, and which are not yet entirely consumed, — such as a stock of clothes, household furniture, and the like. In one or other, or all these three articles, consists the stock which men commonly reserve for their own immediate consumption.”<sup>1</sup>

He then divides Capital into two classes, called “fixed” and “circulating.”

<sup>1</sup> Wealth of Nations (ed. by Thorold Rogers), vol. i. p. 275.

"The general stock of any country or society is the same with that of all its inhabitants or members, and therefore naturally divides itself into the same three portions, each of which has a different function or office."<sup>1</sup>

"Every fixed capital is both originally derived from, and requires to be continually supported by, a circulating capital. All useful machines and instruments of trade are originally derived from a circulating capital, which furnishes the materials of which they are made and the maintenance of the workmen who make them. They require, too, a capital of the same kind to keep them in constant repair."<sup>2</sup>

Ricardo says :—

"Capital is that part of the wealth of a country which is employed in production; and consists of food, clothing, tools, raw materials, machinery, etc., necessary to give effect to labor."<sup>3</sup>

Ricardo does not consider the distinction between "fixed" and "circulating" capital as essential.<sup>4</sup>

J. S. Mill defines as follows :—

"Whatever things are destined for this use,—destined to supply productive labor with these various prerequisites,—are Capital. . . . The distinction, then, between Capital and Not-Capital does not lie in the kind of commodities, but in the mind of the capitalist,—in his will to employ them for one purpose rather than another; and all property, however ill adapted in itself for the use of laborers, is a part of Capital so soon as it, or the value to be received from it, is set apart for productive re-investment."<sup>5</sup>

<sup>1</sup> Wealth of Nations (Rogers ed.), i. 277.

<sup>2</sup> Ibid. p. 280.

<sup>3</sup> Principles of Political Economy (1821 ed.), p. 89.

<sup>4</sup> Ibid. p. 26.

<sup>5</sup> Principles of Political Economy, book i. chap. iv. § 1.

Mr. Mill emphasizes strongly the difference between productive and unproductive investment, and productive and unproductive labor; and I shall refer to this in another connection.

"Of the Capital engaged in the production of any commodity, there is a part which, after being once used, exists no longer as capital; is no longer capable of rendering service to production, or at least not the same service, nor to the same sort of production. Such, for example, is the portion of capital which consists of materials. . . .

"In the same division must be placed the portion of capital which is paid as the wages, or consumed as the subsistence of laborers. Such portion of it as the workmen consume no longer exists as capital at all: even if they save any part, it may now be more properly regarded as a fresh capital, the result of a second act of accumulation. Capital which in this manner fulfils the whole of its office in the production in which it is engaged by a single use, is called Circulating Capital. . . .

"Capital which exists in any of these durable shapes (i. e., buildings, machinery, roads, etc.), and the return to which is spread over a period of corresponding duration, is called Fixed Capital." <sup>1</sup>

Professor Cairnes says:—

"Those other elements [i. e. than wages] may be summed up under the heads of 'Fixed Capital' and 'Raw Material.' Fixed Capital, Raw Material, and Wages-Fund therefore form the three constituents of Capital; and the problem to be solved is, What are the causes which, in a given field of industry, determine the proportion in which these three constituents combine?" <sup>2</sup>

Jevons says clearly:—

<sup>1</sup> Principles of Political Economy. book i. chap. vi. § 1.

<sup>2</sup> Leading Principles of Political Economy, p. 199.

"Capital, as I shall treat it, consists merely in the aggregate of those commodities which are required for sustaining laborers of any kind or class engaged in work."

With good sagacity Senior says:—

"We have already defined Capital to be an article of wealth, the result<sup>1</sup> of human exertion employed in the production or distribution of wealth; and we have observed that each individual article of Capital is in general the result of a combination of all the three great instruments of production,—labor, abstinence, and the agency of Nature."<sup>2</sup>

"Capital, we know, is the sum total of all the things which are necessary for the production of wealth."<sup>3</sup>

It would seem that there ought to be, as Professor Cairnes says in a larger sense while discussing the whole science of Political Economy, a better agreement among economists in defining this important part of their subject, Capital. Mr. Mill, with his customary acuteness, pushes the definition farthest; and in his statement the accumulations of society are finally divided metaphysically. The mind of the capitalist determines at each instant what commodity shall be turned into Capital and what into "Not-Capital." As if the mind of the capitalist and every other agent of society were not controlled economically by the law of the development of that society, whatever the same may be.

Although the economists have been laboring, with such success as these citations show, to classify wealth into "capitals of different kinds," as wise Adam Smith

<sup>1</sup> Theory of Political Economy, p. 214.

<sup>2</sup> Political Economy (London, 1850), p. 60.

<sup>3</sup> Bonamy Price, in the Contemporary Review, May, 1879. Roscher defines: "Capital we call every product laid by for purposes of further production." — American translation, i. 150.

puts it, yet the common mind, the great public consciousness which expresses itself simply and in common language, has used "capital" in a different sense. The common meaning of "capital" includes a larger use and more social quality in its functions than the definitions cited would allow. Mr. Somers, in his article in the "Britannica," says Capital is regarded as "the antithesis of Labor," but denies this proposition, and proceeds to define it in accordance with these standard authorities as "the accumulated savings of labor and the accruing profits," etc. But if this classification of capital into commodities exhausts its functions, why does this "antithesis" exist and take so strong a hold on all discussions of the subject?

It will be understood that I am not contending for a name, or attempting to refine a verbal difference; I am trying to discover the ideas behind the words. No writer has been more careful than Mr. Mill to seek the basis of his definitions, and to scrape his words clear of any residuum of untruth which might adhere to them. In truth, the idea of the social development of Capital was never present to the mind of these writers. That social power which issues through the process of capitalizing uses the accumulated forces of Capital, with the active effort of Labor, and welds them both into a new product. The three categories of social action, as I have called them, have never been apprehended in the laws of political economy. The economists themselves, by their divorce of stock, capital, wealth, property, accumulated profits, or whatever name we please to give these things, from the constant movement of civilization, have given too much ground for the assertion, by Marx and his co-

Common  
mind  
makes the  
Antithesis  
of Labor.

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volves dead  
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workers, that capital is not a thing of life, but is "dead labor." Karl Marx, although calling his great work "Das Kapital," and calling it in a sub-title a "Critique of Marx's Political Economy," does not define Capital; theory. neither does he undertake to show the definitions of other writers to be false. He constructs his idea of Capital in a genetic manner. He says:—

"The point at which Capital begins is the circulation of merchandise. The historical conditions which give it existence are the production and the developed circulation of merchandise. Modern capital may be said to date from the sixteenth century when international markets were established. . . . The ultimate product of this process [trade] is money, and this result of the circulation of merchandise is the first visible form of capital. Historically, capital is first different from real property or land ; it appears as money property, trade capital, and the capital of the usurer. New capital always enters upon the stage — the market — as money, which by a particular process is to be changed into capital. Money as such differs from money as capital only by its mode of circulation (p. 128).

"Merchandise or commodities circulate thus : C — M — C = commodities changed into money, and then into commodities. Specifically different from this is the process M — C — M = money changed into goods, and then again into money. Money thus circulating is changed into capital, it becomes capital, and it is capital in its mission (p. 129).

"The complete formula of the latter process is M — C — M', and  $M' = M + \Delta G$ , or equal to the original amount plus an increment. This increment I call surplus value. The original amount is not only preserved while circulating, but is increased, — it pays. This movement changes it into capital (p. 133).

"The circulation of money as capital is self-centred, as the utilization of its value takes place only in this recurring movement. The movement of capital has no limitation (p. 135).

"It is not proper to treat the value of commodities for consumption or use as the real purpose of the capitalist ; nor is a specific gain his purpose, but the never-resting movement of making gains (p. 136).

"Money changed into or used as capital has received the occult quality of producing value. It produces offspring ; it lays golden eggs (p. 137).

"Capital is money which begets money.<sup>1</sup> This opposes the true nature of merchandise, value, money, and circulation. This opposition benefits but one of the three men who transact business (p. 139).

"Commercial capital is impossible as soon as equivalents are exchanged ;<sup>2</sup> it is possible only through the double cheating of the buying and the selling producer on the part of the merchant who steps between them as a parasite (p. 148).

"It [capital] originates only where the owner of food and commodities finds the free laborer ready to sell his labor in the market ; and this one condition covers a world's history. Hence, capital marks a new epoch in the social process of production (p. 155)." <sup>3</sup>

Professor Jevons, in the spirit of Ricardo, has made an admirable economical definition of Capital as the "aggregation of commodities required for sustaining labor." Yet would he consider the New York Produce Exchange and the Erie Canal, through which a large por-

<sup>1</sup> Marx fails to point out the work of the man who makes money breed ; for money as such is sterile.

<sup>2</sup> This only puts into an epigram Marx's idea of exchange, trade, capital. He ignores the social nature of any common transaction in labor, capital, property, money. His notion is, Labor produces ; it exchanges, it should exchange for an equivalent. It ends in Nihilism. No increment or profit can intervene. The gain or profit should go into the State. The State equalizes all things and all persons. The only "equivalent" possible for the laborer must come through the State. The practical as well as logical outcome of this doctrine is in Nihilism.

<sup>3</sup> I am indebted to C. W. Ernst for this abstract of the opinions of Marx.

tion of the food of English laborers passes, as commodities? Probably he would, in their relation to the support of the laborer. Then would he define the United States government to be a commodity? But the good order of one community has the closest relation to the sustenance of laborers in another,—as the people of Lancashire found to their sorrow when the South rebelled against the United States.

Mr. Mill's system is so filled with the relations of men and things, it is so penetrated by his own large spirit of humanity, that we might expect to find this personal element in capital and capitalizing explained according to his own peculiar views. But the principle in its essential force does not appear in his statement. He says, when viewing the production of wealth:—

“We have concluded our general survey of the requisites of production. We have found that they may be reduced to three,—labor, capital, and the materials and motive forces afforded by Nature. Of these, labor and the raw materials of the globe are indispensable.”<sup>1</sup>

The producing force itself, the moving power of “production” in its relation to the other elements, does not show itself in his reasoning. If we should examine the production of steam-power, and reduce it to these three elements,—the engine, water, and coal,—we should have a similar analysis. But where is the force which moves either of the elements, and precipitates the latent force which is to result in the driving power of steam? Unless there is combustion, unless a great moving force from without

The humane  
Mill not  
human  
enough.

<sup>1</sup> Principles of Political Economy, book i. chap. vii. § 1.

rushes in and transmutes the coal, we get no power, though the constituent parts are all ready for action.

Ricardo was right when he brushed away the distinction between "fixed" and "circulating" capital. All capital is fixed, in the same sense that heat is fixed in coal. But the fixedness of the coal and that of the engine and machinery differ only in degree. The element of time enters in and modifies the law which holds the capital, the preserved force of labor, in suspense; but time does not change the essential nature of the two forms of preservation. The dinner the laborer carries in his tin-pail, the shovel in his hand, and the road over which he travels are all elements which enter into the toil of that day; each is as much a part of the labor of that day as if it were a commodity of sustenance. These elements lie in the social environment of capital, through which the laborer moves toward his end, toward his individual want. That want is meshed in the social need; and though the shoveller may be unconscious of his mission, every act of his correlates him to the society which has gone before. The road, whether it be the old highway or the latest street railway, carries his individual feet along a path which generations have worked upon and smoothed into easy courses. It is the course which society has marked out for him, if he would gratify his individual want, or even if he would earn his right of subsistence.

Mr. Thorold Rogers came near the principle of capitalizing in his note on Adam Smith. "The fact is, the capitalist employer is nothing but a representative of the division of labor; or, as Mr. Wakefield corrects the phrase, of employments."<sup>1</sup>

<sup>1</sup> Wealth of Nations, vol. i. p. 362.

Professor Walker, in his excellent discussion of the question of wages, also says:—

"We have now to note a further source of error in the almost universal neglect by the text-book writers to make account of an industrial function which, while the world over and history through it characterizes a class no more than labor or capital, does yet in the most highly organized forms of industry, especially in these modern times, characterize a distinct and a most important class. . . . Middleman is also part of both terms. This function, then, of the man of business, —middleman, undertaker, adventurer, *entrepreneur*, employer,— requires to be carefully discriminated."<sup>1</sup>

These three writers have recognized the function of the capitalist or capitalizer as a function of industry, but have failed to reach the other side of the function,— its relation to the product of that industry. It is easy to see that their dim perception of the principle was due to their defective insight into the sources of wealth itself. They did not reach the spring which gave the impulse to labor in its primary effort. The social need, which calls out labor and releases capital, by the same act funds itself through the *entrepreneur* into a new product,— a "new capital," as Mr. Mill calls it.

It might have been better if society had not concentrated so much meaning into the single term "capital." Undoubtedly Adam Smith meant that "wealth" should economically cover the meaning, or nearly the meaning, which I am giving to "capital." But as soon as he began to move either wealth or stock, he commuted it into "capitals of different kinds;" and the usage of society has gone on widening out the sphere of Capital, until it virtually includes all forms of wealth as above stated.

<sup>1</sup> The Wages Question, pp. 243, 244.

This historical use of the word cannot be reversed now. Nothing more clearly indicates the departure of Political Economy from the social bearing and social nature which it had in the beginning. The tendency to analyze and classify has too often dried the warm blood out of economic science, and has often turned its dogmas into the dead fossils of a museum, when it should have breathed into them the life of new organisms.

For what did men labor; for what did they practise "abstinence"? For bread, for wealth, for the "effective desire of accumulation," answers the economist, — which is a true answer, but does not exhaust the whole question. Beside the need of labor, beside the greed of wealth, there is the great social need, the moving power of the whole which includes the whole. A number and variety of individual wants does not equal the social want of the whole, any more than several meals of several kinds of food make up the whole living and the vital functions of the human body. This social desire, this moving power of civilization, enters into the nature of capital itself. For civilization has to be renewed every day in all its parts, just as the human body is renewed. It matters not where or what the particular functions of civilization may be; the planting of land, the manufacture of fabrics, the hunting for furs, the ventures on distant seas, all respond to the need near or remote of the civilized society of this day, the environment of the reader and of me. They respond through Capital, as I have described it; through the embodied social force of the time. The response is through a definite process adapted to the particular department of human activity where the transformation takes place. But one process runs through all the

Capital  
vibrates  
with life.

trades and all the manufactures; it is the new formation, the capitalizing, of the old forces and old functions into a new capital. The bushel of wheat growing in Illinois, the silk weaving in Lyons, the sable skin bargained for in the hands of the greasy Jew at Novgorod,—all, or things like them, enter into the life which the sewing girl must live, and the duchess chooses to live, in London.

Thus Capital is informed with these vital forces, and through the constant function and process of capitalizing partakes of the moods and passions of men. The movement of wealth is not controlled by purely physical laws.

The powers of will and portion ; but the human will enters with all its habit.

power into the movement, and the result is modified accordingly. This is no new discovery, but it is overlooked in the deductions of economists. That is, the constancy of this factor is not perceived. They do not remember that living, wilful, restless human beings are at work in every operation which economic laws are trying to stratify into wealth. Contrariwise, habit, the simple inertia of the will, has a force difficult to estimate in any of the movements of practical life. In formulating their principles into laws, the economists have generally neglected this important fact, or have not given it sufficient consideration. We project a change, which under the law of supply and demand seems inevitable ; but often the expected, the apparently natural, result does not follow, and the most experienced and sagacious observers find themselves mistaken in the effect of their plans based on a good knowledge of economic conditions. The minds of men impelled in a certain direction by economic laws will not move thitherward and adopt a

new habit of life, simply because old custom holds them where they are. A new economic condition asserts itself,—one which no human foresight could have anticipated. A mixed condition — consisting partly of the new force or social want seeking to establish itself, and partly of the old habit resisting the incoming force—for the time overrules the simple economic laws which prevail again after the new desires have replaced the old habits by habits of their own. The power which agitates and conducts our every-day life is not a machine using prescribed forces working through certain laws; it is a great animal, only half trained to its work.

The instinct of labor and its organizations looks straight toward the objects of its own desires. They will hear nothing of employer, capitalist, laws of supply and demand, abstinence; they see only labor on the one side and capital on the other. In their view, capital is a voracious animal born out of tyranny and nourished in oppression. It pulsates with a life which forces them to toil; and they combine to resist.

In the writer's view the functions of wealth and capital as enunciated by the leading English economists lead directly to this social result. That is, the fossilization of wealth and capital into something apart from the daily laboring life and social movement of capital, creates a desire in a certain class of men to try to get hold of that accumulation. As said previously, the constant generalization has divorced capital from its kindred functions in social life; it has been a standing menace to the laborer who would try to combine to get more of it. This tendency of the economists shows itself plainly in the dogma of the Wages-Fund. Professor Cairnes, following Mill, says:

Wages-Fund  
misleads all parties.

"We are justified in laying down the following proposition: that the amount of wealth in a country being given, the proportion of this wealth which shall be invested in industrial operations with a view to profit will depend, first, upon the strength of those qualities in the average character of its inhabitants which lead to productive investment,—what Mr. Mill calls 'the effective desire of accumulation'; and, secondly, on the opportunities of investment open to the community offering a rate of profit sufficient to call this principle into activity,—in a word, on 'the extent of the field for investment.' . . .

"It therefore still remains for us to determine the circumstances on which depends the distribution of capital between wages and the other elements of which capital consists. Those other elements may be summed up under the heads of 'Fixed Capital' and 'Raw Material.' Fixed Capital, Raw Material, and Wages-Fund, therefore, form the three constituents of Capital.<sup>1</sup>

"The Wages-fund is stated [by Mr. Mill] to consist of two distinct parts,—one, the largest and by much the more important, constituting a portion of the general capital of the country; while the other is derived from that part of the nation's wealth which goes to support unproductive labor, of which Mr. Mill gives as an example the wages of soldiers and domestic servants.<sup>2</sup>

"In effect, what we find is a constant growth of 'the national capital accompanied with a nearly equally constant decline in the proportion of this capital which goes to support productive labor. This is the inevitable consequence of the progress of the industrial arts, the effect of which is to cause a steady substitution of the agencies of inanimate nature for the labor of man.' In making this remark it is perhaps superfluous to add that it is not to be inferred from the circumstance stated, that the progress of those arts is unfavorable to the interests of labor."<sup>3</sup>

<sup>1</sup> Leading Principles of Political Economy, pp. 198, 199.

<sup>2</sup> Ibid. p. 196.

<sup>3</sup> Ibid. p. 206.

We cannot follow Professor Cairnes through all his ingenious reasonings upon this phantasm of a wages-fund,— a phantasm which the economists have created, not out of economic laws, but out of the false application of those laws to the action of living men and women. This illusion is not shared by economists alone, as will be seen in the following arguments of Mr. Harrison :—

“ Again, the sums which are absurdly calculated as ‘lost’ in a strike, are usually not lost at all, but only retained. No doubt in every prolonged strike a great deal is lost, but it is chiefly in interest upon fixed capital. To calculate all the sums which might have been spent in wages as ‘lost’ or ‘wasted’ is simply puerile. The wages-fund, in the language of economists, is the sum which the capitalist devotes to the payment of wages ; and since in a general strike or lock-out the owners of vast and costly factories cannot employ the fund, except temporarily, in any other way, and their customers have to wait for their goods, sooner or later the wages-fund, or most of it, is paid to the workmen in the trade. Whether it comes to them regularly or spasmodically, signifies a great deal to the well-being of the recipients ; but in the long run they get the gross sum, though somewhat discounted.”<sup>1</sup>

If Mr. Harrison had been one of the survivors from the starvation at the siege of Lucknow, to be told that the food-fund of the world was a fixed quantity, and had accumulated by as much during the siege as the sufferers had been deprived of, so that in the long run he would get his equal share and be as fat as ever, he would hardly have relished his own argument. The whole gist of his reasoning is that laborers are not mere *quantities*, but men. He says : “ The ‘human machine’

<sup>1</sup> Fortnightly Review, iii. 40.

is a very surprising engine. It has a multitude of wants, a variety of feelings, and is capable of numerous human impulses, which are commonly called human nature." Again : " Nothing is more fallacious than to call labor questions simply a matter of wages or money." Yet when he comes to the "wages-fund" he is even worse dazed by quantities than the economists whom he is in the habit of rating so low. The dogma has been sufficiently refuted by Professor Francis A. Walker :—

" That English writers should have been misled by what they saw going on around them, into converting a generalization of insular experiences into a universal law of wages, is not greatly to be wondered at ; but that American writers should have adopted this doctrine, in simple contempt of what they saw going on around them, is indeed surprising."<sup>1</sup>

He holds, as it seems to the writer, the true theory of wages :—

" A popular theory of wages is based upon the assumption that wages are paid out of capital, the saved results of the industry of the past. Hence, it is argued, capital must furnish the measure of wages. On the contrary, I hold that wages are, in a philosophical view of the subject, paid out of the product of present industry ; and hence that production furnishes the true measure of wages. The difference may be found to be an important one."<sup>2</sup>

To comprehend the bearing of this on political economy, we must go back to Mr. Mill :—

" What supports and employs productive labor is the capital expended in setting it to work, and not the demand of purchasers for the produce of the laborer when completed. Demand for commodities is not demand for labor. The de-

<sup>1</sup> Wages Question, p. 143.

<sup>2</sup> Ibid. p. 128.

mand for commodities determines in what particular branch the production of labor and capital shall be employed ; it determines the *direction* of the labor ; but not the more or less of the labor itself, or of the maintenance or payment of the laborer. That depends on the amount of the capital or other funds directly devoted to the sustenance and remuneration of labor.”<sup>1</sup>

The difference between the two views is important, and reaches even farther than Professor Walker indicates. Labor is paid out of its own product, that is, out of “capitalizing ;” and the demand for commodities is the best single measure of that force. I can illustrate this out of actual experience. In my vocation I have had the immediate direction of woollen manufactories. In textile factories the dressing department is the throat through which the prepared yarn must pass to the weaving department, and it largely affects the whole product. That is, the warp yarn is there “dressed,” or laid upon beams ready for the looms ; the process is the adumbration of future cloth. A small number of operatives conduct this department, say less than two per cent of the number in the mill. In this case there were three dressing frames and one overseer at work. The superintendent said to me : “We cannot do the work without another machine. The utmost these four men can dress is 150 cuts per week [the cuts are lengths of yarn or cloth of about 40 yards] ; last week we dressed 147 and wove 158 cuts. Some looms will stop lacking warps ; that will stop other machinery, and we shall lose in the product of cloth while we have plenty of yarn.” The dressing-room was full, and to provide

Proof that  
Wages are  
paid out of  
their own  
product.

<sup>1</sup> Principles of Political Economy, book i. chap. v. § 9.

another machine would have been very inconvenient. The operatives were paid by the day. I therefore said : "As you put it, only 150 cuts can be dressed ; but try this experiment : for every cut obtained over 150 offer a premium of one dollar, to be divided among the four men. If this does not help us, we will get another machine." The first week they dressed 158 cuts, and the second week 164 cuts ; there was no more difficulty, and the looms were supplied with warps. The superintendent was a competent expert, and the process was accurately gauged at 150 cuts : it was not possible to get more without a change of system. This is not an exceptional illustration : every man of affairs has virtually the same experience. Here there was an absolute increase both of commodities and labor without any change in capital or wages-fund, except the slight increase of the capital through a quicker movement of the raw material. If demand for commodities is not demand for labor, why should the writer have striven to increase the product ? There was no accumulation of quick capital which impelled the dressing department forward and resulted in more wages to the weavers and all concerned. The demand for the commodity of cloth drove the whole mill forward, and the immediate lever was the additional premium in the dressing-room, which virtually enlarged the throat of the whole establishment.

The quantity of the different elements of production was not changed. Their relative movement was readjusted, and the whole economical momentum was quickened. The economists often lose sight of this principle, which is one of the best assured economic laws, and it influences all the quantitative laws of matter and trade. The human

How Quan-  
ties be-  
come new  
quantities.

will comes in under new conditions, and transmutes one hundred and fifty into one hundred and sixty or more.<sup>1</sup> This would have been regarded as impossible under the previous laws. And it was impossible, until a new factor should come in and produce a new law through a combination with old laws. Society is always ready to offer the one dollar premium when it has a want to be gratified; then all things affected by that want move forward with a velocity which can be measured only by the actual results attained. No previous experience can define what the unknown power of a new social demand is equal to. The whole modern industrial development is largely due to the freer application of this principle. More individuals have been brought forward to be free actors, and not mere atoms, in old groups, classes, etc. The slave, the serf, the grubbing laborer, the dependent client, the ante-chambered tradesman,— each and all have been released from clogging fetters, and developed into free men. Their individual wants have not only increased the social want; they have inflamed it, driven it forward into new forms of expression.

This great force has been the mainspring of labor and of the price of wages. The notion that there is a quantity, certain or uncertain, of capital in the form of wages-fund which waits to be divided among laborers, even in theory, is as absurd as to suppose that there was a certain quantity of cloth, potential in the mill, which the amount of wages-fund would limit and fix. On the other hand, when the

<sup>1</sup> It is often claimed that this principle is wrong, and overstrains the laborer in the effort of competition. Grant this, and you take away the strongest spring of progress. No one of us ever knows what he *can* do, until he tries. Each individual must in the last resort be the judge of his own capacity.

orderly movement of this modern society is interrupted; then the results from the diminishing momentum are greater than the apparent cause would economically indicate. These interruptions must come from varying causes: prosperity itself will sometimes overrun the absorbing power of society, and disaster will then come from too much circulation.<sup>1</sup>

The normal movement of capital is toward larger production and freer exchange,—more earth products, more manufactures, more trade. This larger product and quicker momentum lowers prices and increases consumption; this in its turn engenders other and varied consumption, as I have shown,—and thus the accelerating movement of society goes on, with occasional drawbacks not sufficient to hinder the ultimate progress. The Larger laborer gets his best return, not necessarily in Wage not a higher wage, but in the increased comforts always higher which come to him from the above movement. Wage.

If he would increase his substance, he must save a portion of his earnings, and add the power of capital to his previous power of labor. This is the movement which actually goes on, though there are some hindrances which are not essential to the process itself. The desire for profit is so keen that capitalizers and men of affairs would devote capital to new production quite as fast as the social need would warrant, if this natural economic law were not interfered with.

When any part of the productive energy and the social accumulation is taken out from this close interrelation of labor, capitalizing, and capital, and set apart as a thing of life in itself, — under whatever name of

<sup>1</sup> This has been indicated by Mr. Bonamy Price in his article, "One Per Cent," in the *Contemporary Review*.

wages-fund, circulating capital, or employer's share, it may be classified,—it becomes a temptation to the speculative greed of man. The oft-quoted sailor said: "Men should have equal rights, and share alike in property and money." "But," said the capitalist, "you would spend your share within a week." "Then," said Jack, "we would divide again." Men are social beings, not generally dishonest; and the average man will not seek after his own advantage through injustice to others. But men do for a class what each individual will not do for himself. This is a distorted social attraction. The social attraction is central, and draws the individual to the grouping centre, which is the good of the whole. Class attraction is tangential; it is the self-principle flattened out into a stratum of selfishness, without the compensating regulation which social attraction and influence begets. Class associations of laborers have sought to get by force the largest possible share of this "wages-fund," — this ready-made money which glittered in their eyes as the wealth of the Indies shone before those old rovers who plundered on principle. In the Homeric days heroes told mighty tales at the camp-fires, and the lads listened around. The only romance was in deeds of arms, or in stealing the property which some one else had acquired. But yesterday I saw a boy of fifteen swing himself into the tail of a huckster's cart as he ran. He pulled a story newspaper from his pocket before he was fairly in his seat, and began to read. There, nestling among the cabbages, his legs dangling in the air, his mind went into another sphere, and his imagination conquered another world. It is an every-day occurrence. Commodities, trade, manufactures, move in intimate

Capitalizing makes Capital Social.

relation with the mind of man. It is not merely the great thoughts of great men which affect us, but the common thinking of every-day people is a constant factor in our daily life. The principle of capitalizing will alone account for the conditions of wealth in these days. It affords that ready interplay of Capital and Labor which is the strongest characteristic of this age.<sup>1</sup>

The partition of wealth into a something separate from other social functions naturally led the economists to idolize it, and treat it with a deference which should be inhuman, so to speak. Adam Smith began:—

“Parsimony, and not industry, is the immediate cause of the increase of capital. Industry, indeed, provides the subject which parsimony accumulates. But whatever industry might acquire, if parsimony did not save and store up, the capital would never be the greater. Parsimony, by increasing the fund which is destined for the maintenance of productive hands, tends to increase the number of those hands whose labor adds to the value of the subject upon which it is bestowed. It tends therefore to increase the exchangeable value

<sup>1</sup> This statement from the “*Nation*,” of May 13, 1880, incidentally illustrates the social and political power of capital: “And then capital, which is now seeking new fields with a fierce greed, by which nearly every government in Europe is consciously or unconsciously influenced, has fixed its eye on the magnificent region known as Asia Minor, and found it full to overflowing of materials for handsome returns, and which nothing prevents it from getting at except insecurity and arbitrary and oppressive taxation. In fact, very much the same kind of pressure is beginning to bear on the Turks which our Western adventurers bring to bear on the Indians in their reservations. The money markets in London and Paris, now that they will not lend the Sultan any more money, are beginning to insist with the subtle, silent, but always in the end overwhelming, persistence which the owners of unemployed capital know so well how to exert, that he must, at least, give them a chance at his mines and minerals, and wheat-fields and olive-yards and vineyards, and must let them carry their own police with them and fix their own taxation.”

of the annual produce of the land and labor of the country. It puts into motion an additional quantity of industry, which gives an additional value to the annual produce.”<sup>1</sup>

Mr. Mill treated it as “abstinence,” and the principle has been generally adopted by recognized economists, or the “orthodox” school, as they are termed. I wish to consider here his doctrine of “unproductive labor and consumption”:—

“It is essential to the idea of wealth to be susceptible of accumulation. Things which cannot, after being produced, be kept for some time before being used, are never, I think, regarded as wealth; since however much of them may be produced and enjoyed, the person benefited by them is no richer, is nowise improved in circumstances.”<sup>2</sup>

“By unproductive labor, on the contrary, will be understood labor which does not terminate in the creation of material wealth; which, however largely or success- Unproduct- fully practised, does not render the community and tive Con- the world at large richer in material products, but sumption. poorer by all that is consumed by the laborers while so employed.”<sup>3</sup>

“The distinction of Productive and Unproductive is applicable to Consumption as well as to Labor. All the members of the community are not laborers, but all are consumers, and consume either unproductively or productively. Who-ever contributes nothing directly or indirectly to production, is an unproductive consumer. The only productive consumers are productive laborers,—the labor of direction being of course included, as well as that of execution. But the consumption even of productive laborers is not all of it produc-tive consumption. . . . There are numerous products which may be said not to admit of being consumed otherwise than unproductively. The annual consumption of gold-lace, pine-

<sup>1</sup> Wealth of Nations (Rogers's ed.), i. 341.

<sup>2</sup> Principles of Political Economy, book i. chap. iii. § 3.

<sup>3</sup> Ibid. § 4.

apples, or champagne, must be reckoned unproductive, since these things give no assistance to production, or any support to life or strength, but what would equally be given by things much less costly.”<sup>1</sup>

It is not in a narrow and parsimonious spirit that he writes, as we see from the following, which is the concluding paragraph in the chapter:—

“ It would be a great error to regret the large proportion of the annual produce which, in an opulent country, goes to supply unproductive consumption. It would be to lament that the community has so much to spare from its necessities for its pleasures and for all higher uses.”<sup>2</sup>

Many of the social deductions of Mill are singularly opposed to his economic theories, but I do not cite him to discuss this point. The fact I would insist on is, that his whole theory of productive labor and consumption is wrong; and that it errs because that part of his economic system is not based on sound social principles, or knowledge of human nature.

Let us work out the theory that “the only productive consumers are productive laborers,” and that “numerous products” (i. e. “gold-lace, pineapples, or champagne”) give no assistance to production. In 1849 and the following years gold was discovered in California; miners grew suddenly rich, acquired waste but fertile lands, raised flocks and herds and immense crops of wheat. Now suppose that these modern economic aids to production had been applied to develop the new civilization of that country. We will not suppose that economic disaster should come in through sudden appli-

<sup>1</sup> Principles of Political Economy, book i. chap. iii. § 5.

<sup>2</sup> Ibid. § 6.

cation of the theories in old countries, but only that all new civilization and production should be adapted to the new theory. The new farmer and *ranchero* could buy no broadcloth or silks, because he must confine himself to *poncho* blankets and his wife to printed calicoes, for they are more "productive" products in the economic sense. He could only take from the older communities an occasional saddle and bridle and the commodities used by the few artisans who should supply the narrow "productive" wants of the rising community. What could be done with the surplus produce of the fields, flocks, and herds which would constantly increase with this "productive" parsimony? People could not immigrate and consume them, because there would be no new wants in California to absorb their "unproductive" energies. Older countries could not take them, because they could not exchange <sup>Folly</sup> their own products for them. This law of ex- <sup>of theory</sup> change is always relied on by all the econo- <sup>illustrated</sup> mists. The surplus produce must rot; or, which is the same thing economically, it would not be produced, because there would be no "effective" motive. Thus purely "productive" labor and consumption would have completed its social circuit, and would have ended in "unproductive" abstinence from production.

Now consider what the California miner and agriculturist did in fact. As soon as he exported any produce, — or we will say any agricultural produce, because the economists differ as to the economic effect of gold,— he began to import "gold-lace, pineapples, and champagne," or similar articles. He not only drank the champagne, but employed a man to uncork the bottle, and trimmed his coat with gold-lace, if he had that sort of fancy;

or, more probably, he would give the militia company, which was the stay of good order in the next village, a uniform, and put the gold-lace on their coats. He would consume silks and champagne, which would allow France to take a portion of his surplus, and other articles from England, from the Eastern States, from everywhere ; and this his "unproductive consumption" would feed productive consumption all the world over.<sup>1</sup>

This may not be the method by which the economists would move the world forward in the production, consumption, and reproduction of wealth. It is the only method humanity has ever adopted ; and it is based, not on the "productive" division of labor as Mill and economists generally define it, but on the social need of a whole community : one part is no more productive than another part in the immediate consumption and reproduction.<sup>2</sup> Undoubtedly some capital or wealth must be accumulated or parsimoniously saved as the process of consumption goes on. But that accumulation accords with the law of social proportion,—a most intricate combination of laws growing out of all the economic laws working into certain social laws.

<sup>1</sup> Bandrillart (*Histoire du Luxe* i. 52) holds that there is a natural order of social development, beginning with the useful and necessary, and passing on to the luxurious and beautiful. Nay, more,—that often the development of the superfluous is anterior to that of the necessary. "To bring in progress it is not enough that a want *exist*, it is imperative that it be *felt*. Only on this condition can it become a principle of activity" (p. 56).

<sup>2</sup> "Agriculture produces grain, which is indispensable, and tobacco, which is not; industry, cloth as well as lace; commerce draws from the same part of the world rhubarb and edible birds' nests; and so, to *services* belong the indispensable ones of the educator and judge, as well as those of the rope-dancer and bear-leader, which can be dispensed with. Indeed, the dividing line between material and intellectual production cannot, by any means, be closely drawn." — *Roscher's Political Economy* (*Amer. Trans.*), i. 176.

It is astonishing how theories like these mislead men of sense, and the absurdities they develop are among the most curious of mental phenomena. Mr. Senior is certainly a learned, an able, a scientific economist, and this is his notion of "unproductive expenditure":—

"So far as the husbandman takes just enough of the least expensive food, is just sufficiently clad with the ~~Grim~~ <sup>simplest</sup> raiment, and inhabits a dwelling just ~~nor~~ <sup>economist</sup> of the sufficiently weather-tight and spacious to protect him from the seasons, he is a productive consumer. But his pipe and gin, and generally speaking his beer, and the humble ornaments of his person and his dwelling, form his unproductive consumption. . . . If a judge, or an ambassador, required by his station to support an establishment costing £2,000 a year, should spend £4,000, half of his production would be productive, and the other half unproductive. It would be a great mistake, however, to consider the third footman behind his coach, though a mere useless weight to the horses, an unproductive consumer."<sup>1</sup>

These statements are not jokes, but scientific arguments. But what court fool in cap and bells ever made more ghastly jokes? The "just sufficiently weather-tight" is exquisite in its kind. One shingle more, or one straw more, in the thatch, would have disordered the universe of political economy. But a third footman might possibly be jolted through, and social order be saved thereby! Is it strange that Proudhon gave the economists some ugly twists with his unscrupulous logic?

The parsimonious accumulators of capital are like the swamps which soak up abundant rains and give out reserved supplies when the river falls, and thus sets the latent gravitation of the water free. But suppose the

<sup>1</sup> Political Economy (London, 1850), p. 56.

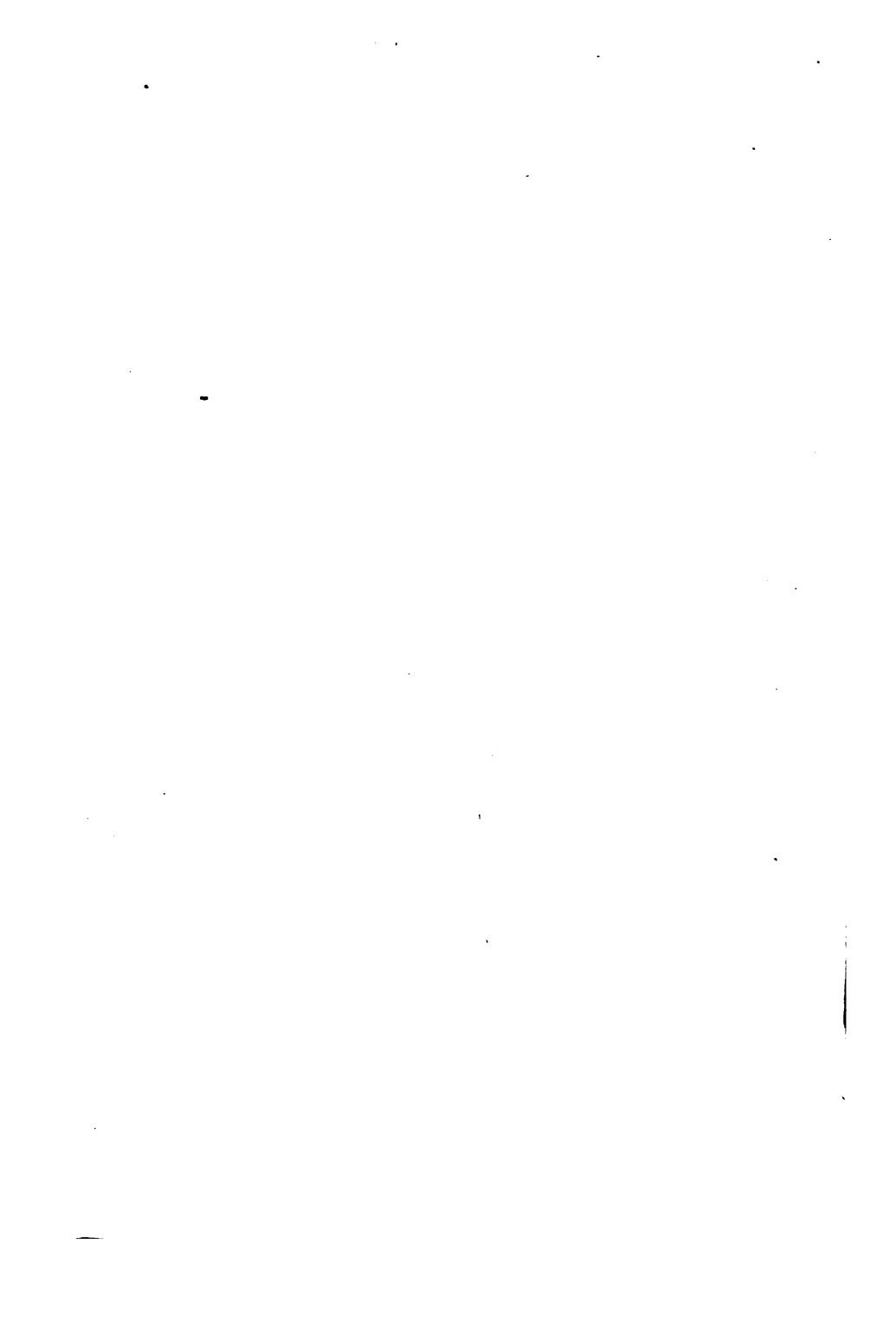
country were all swamp, where would be the power in the water, or the capital which it symbolizes ? The power of the water is not in the swamp, in the reservoir, but in the flow of the river. The lowering force in the stream is as essential as the accumulated force in the swamp ; the potentiality of the reservoir would be as nought, if there were no movement in the great body of water to which it is tributary.

We can see the outcome of these principles more readily in a new community, and particularly in such dramatic spectacles of civilization as California and Australia afford us. But the same controlling force is at work in every community of every civilized land. An immense industry is concentrated in the Mediterranean trade, as it is called. The chief basis of this trade is oranges and other things equivalent to Mr. Mill's pineapples. It ramifies over all the countries which do not grow semi-tropical fruits. It is as solid and productive in its character as any industry in the world. People, well or ill, like oranges ; and the desire stimulates them to effort, and in some way they earn money to gratify it. Champagne may not be the highest aesthetic agent, but put a case of it with a box containing the volumes of Mr. Mill's excellent works into ninety-nine one hundredths of the homes of the civilized world, and see which would be the "productive" agent for use and consumption. Gold-lace played a great part in the industry of the Middle Ages, and at about the same time

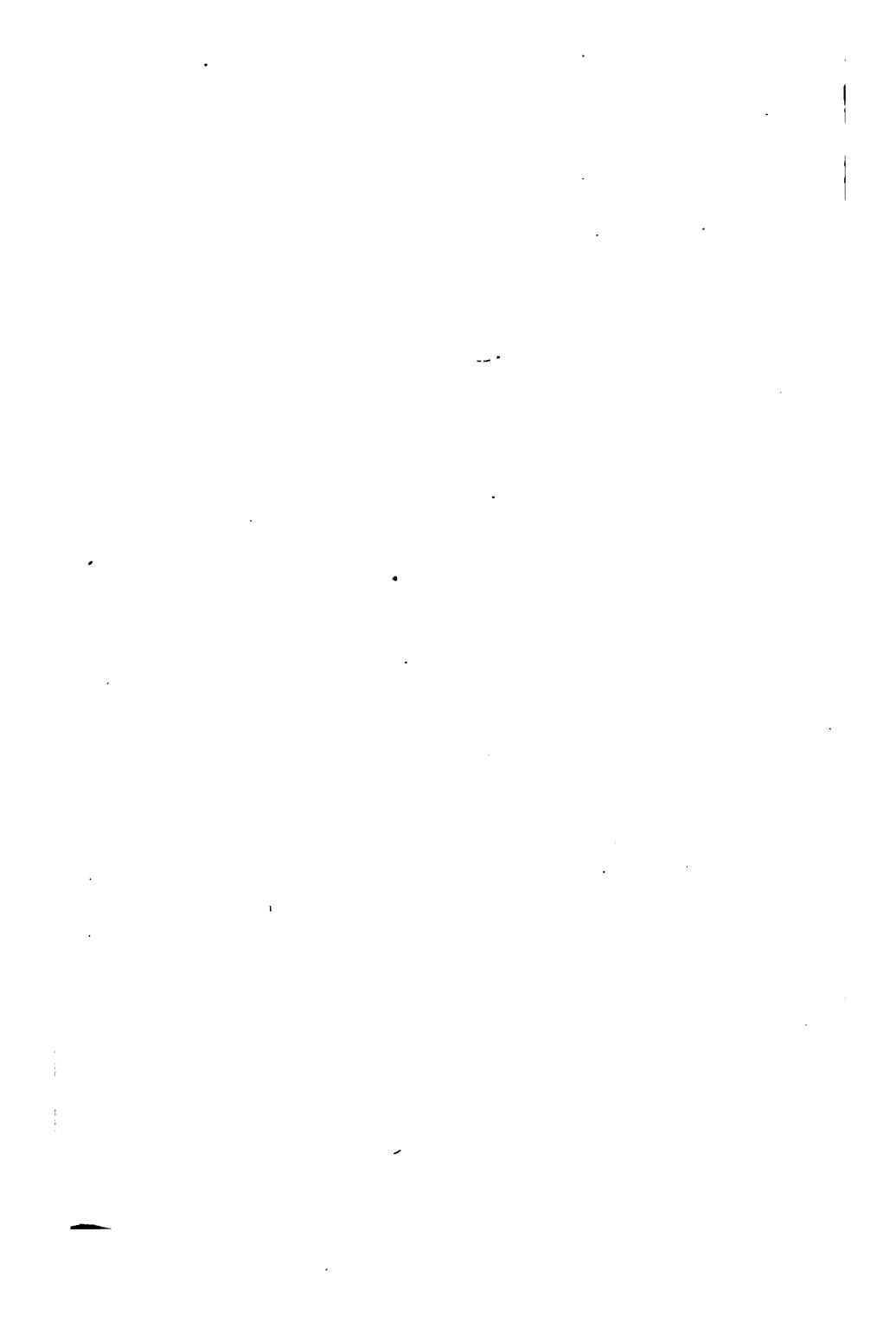
Capital finally subjected to the Will. the finest energies of this land were employed in producing wampum. Neither one of these articles is much appreciated by sensible people now, but in their day they gave a form to the social want of the time. We must not inquire too

curiously, nor attempt too closely to gauge the nature of man with our economic compasses and calipers. The individual man, the laborer, in this generation has, and for many generations to come will have, some desires *of* his own.

"A poor thing, sir! but mine own," says Touchstone. These minute individual desires fashion the wondrous social want which moves the world of civilized man. Capitalizing gives this mighty force an expression modulated like the action of Nature herself. The flavor and color of these human desires must be embodied in Capital, the final resource of society.



**SOCIETY, NEW AND OLD.**



## VI.

### SOCIETY, NEW AND OLD.

IT is obvious that this social development which we have tried to sketch has stamped its characteristic features not only upon every institution, but upon every individual of the higher races. Somewhere in the remote past, the great races speaking the Aryan language were moved by a profound impulse that became an organic force, and finally carried them out of the tribe into nations and states. This profound social principle, this divine political instinct, took different forms; it branched into the States of Greece and Rome in Southern Europe, and it grew into the minute social structure of feudalism in Northern Europe.

With our limited powers we are obliged to consider mankind, if not in bulk, at least in masses; and we are forced to treat individual men and women as parts of races, nations, and periods. Nevertheless, mankind is man. Every man and woman who sailed with Columbus, or landed with Smith in Virginia, or from the "Mayflower" in New England, bore with them, in their own blood and bone, all the development, all the civilized and civilizing structure brought over from the Aryan centuries, not to speak of the wide-reaching influences derived from other races. These individuals came to this new world, bringing the old institutions; but they planted these institutions freed from the entangling undergrowth which fettered them in the older

soil, where they sprung into life. These men and women planted a society which should be both old and new. It

Principle  
of Social  
represen-  
tation.

brought over from ancient life that two-fold organism which I have sketched, and which rests on both persons and property. This prin-

ciple of social representation, which is far deeper and more powerful than our modern political representation, one of its offshoots, brought society through the ancient and mediæval times. It manifested itself not only in the aristocracies of birth and privilege, but in the corporation and the guild, as I have attempted to show. The European emigrants and pilgrims brought the results of all this life and culture, each according to his experience.

These people were true to the old forms of settled living, making their community, as Tocqueville sagaciously observed, one of the oldest societies on earth.

The Social  
Unit be-  
comes an  
individual  
Person.

They also carried deep in their bosom another idea destined to work the greatest changes in human history. This idea, this principle, took form in the Renaissance, in the new time ; and

though it worked through all the European nations, it produced the greatest effects in the New World where the ground was open for the outgrowth of new institutions and social experiments. This principle consisted in the elevation of the person, not as a mere element or factor in society, but in himself. Society should improve itself, not through the elevation of a few representative individuals, whether nobles, artisan corporators, or guild brethren, but through the enfranchisement and elevation of every person in its ranks. I do not say that the movement was complete or perfect, that it always accomplished its ends ; but it constantly tended

in this direction. It was not a local spasm, affecting one race or community, but a wide movement, reaching from Italy to Norway and Scotland, to New England and Georgia.

The old organism, I have said, was two-fold, resting on person and property. It was almost impossible, as Sir Henry Maine insists, for a noble in the olden time to raise or to sustain himself without property. In the mediaeval days, scholars and thinkers were generally proud bishops and gentlemen, or poor clerks and priests dragged at the heels of a nobleman's retinue. Person and property moved together. The new time changed all that. The great idea slowly germinated that God is in man, that each man and woman has a single and direct relation with the Creator, and that this relationship is the most important factor in human society. This thought, though it appears so simple in our day, was a renovating force of enormous power when it began to work in the forms of society, when it was first put into the daily life of individuals and communities.

It changed the relations and functions of person and property, though it could not change their essential nature. The social institution of the person was not divorced from property, but became partially independent of the great social forces embodied and consolidated in property. The individual had become so important in himself, he was needed for so many opportunities, that society began to look to the individual person as an essential part of itself, as it had looked on a noble or a priest. A scholar, an inventor, a brave but poor man, became a constituent representative of social force and privilege in himself, and not because he was in the train of a noble or a servant of the Church. This was

not a mere birthright conferred on every human animal born with two legs. Each man had to win for himself a new recognition, or drop into the atomic sea of living units who make the mass of mankind. This is the essential character of the institution of the person in modern society, which I have tried to set forth. It was and is the privilege of a man to be and to do; not only this, but to be better and to do better each year of the world's life. This principle lives and works in spite of the dark shadows of pessimism, and it enlarges human happiness with every revolution of the sun's light.

In America, where society is comparatively elastic, this social power of the personality is not transmitted by birth as a rule. Property and privilege may prop

Elasticity of American Society.  
and sustain a weak individual for a time, but life moves so rapidly that he soon falls unless he can create new strength. A certain stand-

ard of ability must be rendered, or society will not trust its responsibilities to the person. The laws of inheritance reflect this social instinct. The early Americans guarded the elective social right very jealously, and took care lest property should fix itself and continue without regard to persons. It mattered not whether fortunes were large or small,—they have rarely lasted through three generations in this country. In the rare instances, where they have endured so long, they have been maintained by persons of exceptional strength and wisdom.

In the old time, social leaders must be strong men, or women with the habits of men. They must be brave, resolute, rich, able to sue and be sued, strong in retainers to attack or to defend themselves and those under them. These were the leaders, the *persons*; the rest were cli-

ents, vassals, serfs, slaves, or outcasts,—men of no tribe, “broken men.”

In the new time the tribal household and feudal organizations had gone out, though they had ingrained themselves in the structure of every nation and every individual. The State had been a political or at best a religio-political organism. “The Senate and the Roman People” meant the patricians and the few organized groups making the citizens of Rome; there was no popular representation in the modern sense. The State then rested on heads of families, households, and corporations.<sup>1</sup> It ignored the social functions, and made the strong persons the heads of organisms, responsible for their proper administration. And the French Louis said: “The State, it is I.” In the new time the State gathered into itself not only the patricians and landholders, but the clients,<sup>2</sup> serfs, homeless and broken men. Not that it gave them immediate representation,—the movement is not completed

<sup>1</sup> The Roman Empire took barbarians from Central and Southeastern Europe, and rooted them to the soil in Gaul as *colons*. These serfs became real estate, and were sold with the soil. American negro slavery fastened the slave to the person of the master. Now, skilful laborers start with the early wheat crop in Texas and drive the reaping machines through it. Then they pass with the ripening crop through Missouri, Kansas, and Minnesota, going from machine to machine, to which they bring the finest skill at the least cost. The agricultural laborer, from a mere root in the Gallic soil, has become a person, embodying social force, and carrying with him all the rights property can give a citizen.

<sup>2</sup> I am indebted to Dr. Hearn for this suggestion of points hinted at rather than treated in the “Aryan Household”: “1. The distinction between the *Populus* in the strict sense, whether in the true clan or the artificial clan, and the dependents, rustics, clients, or whatever else they may be called. 2. The influence upon the latter class of the *State*, and the growth of a free wage-earning population as a development of later *political* history.”

to-day. The constant problem for modern statesmen has been to elevate these new classes of citizens fast enough, and not too fast. It was the new recognition of man as man. And the successful governors have been those who could graft these new citizen scions upon the old institutions of property and social organization.

The pilgrims and cavaliers brought into America the Town and spirit of organization<sup>1</sup> which is born into all County Or- English-speaking peoples. In the New Eng- ganization. land they planted the town,—the best exponent of popular government the world has ever known. In Virginia and other colonies they used the county for the basis of organization. This only carried over the town, in a somewhat enlarged and expanded form, into the new conditions of colonial life. It is now admitted that the English county did not proceed from the king or kingdom, but that the kingdom, the larger sovereignty, came from the union of the smaller districts. The parishes, manors, hundreds, and tithings aggregated into counties; the shire grew out of the land, and the sheriff grew out of the older governments of the people.

Virginia affords interesting illustrations of the out-growth of private property on the one hand, and on the other the development of representative government out of corporate sovereignty. It was not until the third charter was granted from the crown that the "incipient establishment of private property"<sup>2</sup> began, and a few acres of ground in severalty were assigned to each citizen

<sup>1</sup> "In the early history of the United States, nothing is more remarkable than the uniform attachment of each colony to its franchises; and popular assemblies burst everywhere into life with a consciousness of their importance and an immediate capacity for efficient legislation." — *Bancroft's History of the United States*, i. 250.

<sup>2</sup> *Ibid.* i. 144.

for his own orchard and garden. This seems to have been a personal right conferred on all the citizens together, for there had been a mixed condition of property in land from the first settlement. Those who emigrated at the expense of the corporation worked on the corporate lands; those who came or sent emigrants at their own expense received one hundred acres of land for each emigrant.<sup>1</sup>

But the political change instituted by this charter was still more pregnant. The governing power transmitted from the crown had heretofore rested in the council of the company. Through this charter it passed into the people, and in the next century the crown found that it carried sovereignty with it. Only eight years after, the people had learned to use their privileges, and the first colonial assembly in Virginia was assembled.<sup>2</sup> The unit of representation in this interesting body was the borough.

For reasons lying beyond our discussion this looser form of organization suited the American colonies where there were large landed estates, and agriculture was the chief pursuit of the people. The families occupied farms and kept some of the characteristics of the old Aryan and Roman household. The freemen—the representatives of these families, or of property, or of some social right—met in a district assembly, which sent delegates to the general assembly, court, or legislature; and this union of the smaller bodies governed the colony. The county differed

<sup>1</sup> Bancroft : History of the United States, i. 149.

<sup>2</sup> "The governor, the newly appointed council, and two representatives from each of the boroughs (hence called burgesses) constituted the first popular representative body (1619) of the Western Hemisphere." Ibid. i. 153.

in form, but not in essence, from the town. Here was a municipality in the egg, a corporation in embryo, which held sovereignty in its blood, and which would finally become the sufficient foundation of a State. The town of Paxton<sup>1</sup> in Massachusetts, with its five hundred inhabitants, declared war against George the Third and the English parliament on its own account. It gravely ordered its officers to buy powder to fight the king. King, lords, and commons did not know that there was a sovereign power in this little company of free men and women. But the town of Paxton, as well as others, knew it; and the result proved that the whole organism of a State was enfolded in these little republics, which have talked much of democracy, but have been democratic only in name. The clergy, lawyers, and physicians,—the larger proprietors where there were any,—took the social responsibility of the lords, the farmers stood for the commons and gentry, thus making an order of nobility though without the titles of nobles, such as I have described under the symbol of the person; and this order has been constantly widening since.

The famous Plymouth compact is well known. When the settlements began to extend, "two sufficient men,<sup>2</sup> one of Yarmouth and another of Barnstable," were annually empowered "to hear and determine suits and controversies betwixt party and party within the township, not exceeding three pounds." The same organizing

<sup>1</sup> At a meeting in 1774, the town voted unanimously that the act of Parliament for regulating the Government of Massachusetts Bay should not "take place." At a subsequent meeting they appointed Moore, Witt, Earle, Moore, and Brown a committee, and afterwards ordered them "to buy two half barrels of gunpowder in addition to the present stock."

<sup>2</sup> Palfrey : History of New England, ii. 15.

spirit which had appeared in Virginia achieved still greater results in the New England. The town,<sup>1</sup> not the borough, but a matured municipality, sprang from the common brain of these hardy yeomen and enlightened gentlemen. As early as 1644, the people of Dedham, Massachusetts, set off lands for a free school. The whole polity of an incipient State was carried in the simple organizations of these early republics. Political, civil, ecclesiastical, and social functions all worked together in the life of these stalwart citizens.

They worked not always in harmony. The men of Boston and Salem determined to have a homogeneous community in all its ecclesiastical and political tendencies. Roger Williams differed from them both as to land tenure and as to liberty of conscience. The Quakers admitted no ecclesiastical supremacy on earth.

The settlement of Williams and his associates in Rhode Island is important from our point of view, because it was a branch of an offshoot, or rather a branch detached, which finally formed and attached itself to the parent trunk. Plymouth and Virginia took their sap of sovereignty from the parent trunk. The written compact<sup>2</sup> under which Providence was settled

<sup>1</sup> Land was set off by the General Court, and the church and meeting-house were first arranged. "Almost from the beginning each town had the following civil officers, chosen by its own freemen; namely, a clerk, a treasurer, a sealer of weights and measures, one or more surveyors of highways, a constable, and one or more tithing-men. Meanwhile the persons exercising ecclesiastical functions were officers of the same community, elected by the same constituents." — *Palfrey's New England*, ii. 14.

<sup>2</sup> "We, whose names are hereunder, desirous to inhabit in the town of Providence, do promise to subject ourselves in active or passive obedience to all such orders or agreements as shall be made for public good

dates from 1637. The Parliamentary Charter for Newport and Rhode Island was not received in the colonies until 1644.<sup>1</sup> For seven or eight years these governments lived suspended in mid air, as it were. Like orchids, they left the political soil of Massachusetts Bay and Plymouth, and propagated themselves in the atmosphere of popular sovereignty and orderly government, which is breathed by the Anglo-Saxon people. These settlements maintained themselves in the midst of the Indians, and disputed vigorously with their more powerful neighbors, Massachusetts and Connecticut, which pressed for their territory on either side.

This "lively experiment" well illustrates the innate capacity of the early Americans for self-government. When the charter arrived from England, then the liberties of the people had an assured foundation, as well as a local habitation. Rhode Island has exercised the sovereign powers of a State ever since.

We remark that they made the family the unit and basis of the community. They had no authority from

of the body, in an orderly way, by the major assent of the present inhabitants, masters of families, incorporated together into a town fellowship, and such others whom they shall admit unto them, only in civil things." — *Arnold's History of Rhode Island*, i. 103.

They seem to have gained some knowledge of State-making; for two years later, in 1639, when they founded Pocasset and Newport, they not only pledged themselves to each other, but also to the absent king: "We whose names are underwritten do acknowledge ourselves the legal subjects of King Charles, and in his name do hereby bind ourselves into a civil body politicke, and do submit unto his lawes according to matters of justice. . . . According to the true intent of the foregoing, wee whose names are above particularly recorded do agree, jointly or by the major voice, to govern ourselves by the Ruler or Judge amongst us in all transactions for the space of one year, he behaving himself according to the tenor of the same." — *Ibid.* i. 134.

<sup>1</sup> *Ibid.* i. 114.

the crown ; that was to come later, as we have described. The Puritans had made the town a joint ecclesiastical and political corporation ;<sup>1</sup> but after their experiences in Massachusetts, Williams and the Quakers gave the body politic authority "only in civil things." The control of the conscience, which the crown or sovereign power of the State had gradually relinquished, was here taken away from the municipality also. Government was instituted to maintain order ; the individual conscience was left to itself and to God.

Thus we see Society organizing itself under different conditions, by laws as certain as those controlling the crystallization of water. A spicula appears among the liquid particles ; it attaches itself to others, and stretches into a needle, shoots across to other little solid bars, and a film spreads over all the moving liquid ; gradually the water is formed into one whole mass of crystals, and a new organism has been created out of air and water.

State grows  
out of  
small as-  
sociations.

Association, the tendency to fellowship, the desire of mortals to give and get strength, — this furnishes the great moving power which binds communities together. This power is severely conditioned, and moves under social laws which have developed according to the circumstances of the various races. All these organisms, — tribe, family, corporation, town, and city, — are different means of working the body politic, organs which finally articulate in the larger life of the State.

The town is only a more simple form of the municipal corporation which culminates in the city. It has been claimed that the town is a government coming immediately from the people, while the city governs through

<sup>1</sup> See Note, p. 279.

representatives of the people. But this is a distinction of form rather than substance, of degree rather than kind. Democracy, the immediate action of the people, is often treated as if it were a means of direct inspiration. Heedless people sometimes treat it as if each individual were filled by a divine afflatus, which in some way instantly lifts the whole community into a higher sort of political action. History shows the fact to be precisely opposite. The people act magnificently wherever occasion requires; but they act through the fixed organs of social responsibility, the trained functions of their past life. The *demos*, the deme itself, is or was an organization, not a mere liquefaction of individual units.

The village is a lesser city, a closer aggregation of people than the town can give to its scattered members. This kindred of neighborhood develops the latent sociability of the town, and civic intercourse and courtesies begin. It is a city in the germ.

The modern State, as we remarked, did not destroy the old social institutions, in raising persons and individuals into higher social activity; it united the two

streams into one current of life. This union  
The City. is developed most completely in the modern city. Here persons, property, and social order are working together in the new harmony, which we now call civilization. It will be interesting to study the life of a city in America, to note how complex it is, and what a complete social organism it has established for working out the wants of the people of this time. It is very like mediæval towns, and still more unlike them. It gives the citizen of worth and social power great opportunities for activity; yet it holds him hard and fast

as one unit, one integral part of the State. He has no privilege of caste or guild or church; yet as a man he is stronger in his modern right than those institutions were in their older privilege.

It would be difficult to trace these principles in the large cosmopolitan cities, though they certainly exist there. But I have taken the facts of the present life of a city of one hundred thousand people, and they are significant in their social bearing. Hardly any member of this community is so poor that he is not *associated* somewhere, bound into some organism outside himself or his own family. These various associations fall into three great groups,— political, religious, and social :—

1. *The Municipality*,— which includes all the organs of the political life of these 100,675 individuals. This includes 35 associations, 25 of which belong to the municipality proper, and 10 comprise the organizations of the political parties.

2. *The Church*,— which embodies the religious life, and is supplemented by another group which carries the religio-social life. These groups number 286 associations and 83,619 members, many persons being included in both.

3. *Social Institutions*,— divided into: (a) Social ; which comprise the social activities of individuals put forth beyond their own families (this comprises 486 associations, with 84,758 members). (b) Industrio-Social ; which give play to the efforts of individuals in labor and the creation of the means of subsistence (this division embraces 444 associations).

This record is necessarily incomplete, for social statistics are a new field for inquiry. But the parts omitted

would add to the complexity of the social structure if we had them all present in our sketch. Here are 1,251 associations of which I have a positive record, though I have not been able to obtain the membership of a few of them; if obtained, these members would increase the totals of the persons enumerated. The most interesting group in this connection is Social (3 a). Four hundred and eighty-six organizations divided as follows:—

Athletic Organizations . . . . .	20
Benevolent . . . . .	47
Educational . . . . .	126
Industrial (not producing organizations) . . . . .	9
Masonic . . . . .	27
Medical . . . . .	10
Military . . . . .	23
Miscellaneous . . . . .	15
Mutual Benefit . . . . .	27
Musical . . . . .	67
Odd Fellows . . . . .	39
Social . . . . .	44
Temperance . . . . .	32
	<hr/>
	486

The Industrio-Social group (3 b) is divided as follows:

Banking Associations . . . . .	38
Business " . . . . .	341
Savings Banks <sup>1</sup> . . . . .	11
Speculative Organizations . . . . .	54
	<hr/>
	444

The classification is not absolute. The military organizations, for example, are partly municipal and partly social.

<sup>1</sup> These include 50,827 depositors.

Here are 1,251 organizations beyond families and partnerships. Generally they are legally incorporated, and all have the substance of the corporation. Some persons belong to as many as twenty different organizations; these individuals are thoroughly incorporated into the body politic. The numerals given are nought, except as they indicate the structural organs behind them. These figures reveal the significant fact that there is a minute social organism which the State, as we usually consider it, does not show at all in its enumeration of its resources. It is true that there are only 16,631 registered voters, but these represent all classes. There are 44,217 individuals recorded as employed in productive industry (including the professions). Probably the large majority of the other portion of the population are children, or engaged in domestic service.

This social organism embraces in substance the whole community. The number of persons not included in any of these societies is insignificant, and would not affect any social or political issue. It is only when the order of a society based on persons and property is broken, that the disorganization of a mob, or the disaster of a riot, prevails. It is not the substratum, the "dangerous classes," which makes the conflagration of a mob. These classes furnish the fuel only, the fire originates elsewhere.<sup>1</sup> This organism embodies the life of a people;

Organiza-  
tion  
reaches  
through all  
classes.

<sup>1</sup> This was proven in the famous riot at Pittsburg. This arose because the local community was out of sympathy with the great Corporation of the Pennsylvania Railway. This community, not foreseeing the consequences of social disorganization, allowed a mob to overpower the police and soldiery, and to murder, rob, and burn at will. When these same citizens found that the destruction of the railway property was being followed by the ruin of all property, they rallied to the cause

it embodies labor as well as capital, and capital as well as labor. You cannot run a line through these associations, dividing one from another, and say this belongs to capital, that belongs to labor. The results of both forces are contained in this great body of Society, in which all are interested, in which all live, and for which all must die if the sacrifice be demanded. This organism is an orderly development reaching backward into the past, and filled with germs of promise for the future. The old Roman household was quite as essential to domestic order and comfort as the Roman municipality. The German spirit of individual independence was also accompanied by a tendency to association. Altogether and in common they worked out representation, and gave the powers of combination which could form the English and American communities. All these inherited tendencies work together in American society, and give the detailed results we have set forth.

We must pause in this development of the town, county, village, city,—the whole American State, in short,—to consider two forms of institutions which lie just outside these common and historically developed organs of the State. One of these is built upon trade exchange, and the employment of labor, working through corporations, or co-operative associations, chiefly in England. The other form is the social, or religio-social, community in America, which has separated itself from the ordinary municipality as far as possible, and has

of order and good government. The riot was quelled by very simple means (patrols of citizens armed with base-ball bats made one element) as soon as the substantial *persons* of the community showed that *they* would rebuke disorder. The verdict of damages laid upon this cowardly municipality was and is an excellent lesson for all cities or villages.

formed a corporation of its own, administered for the benefit of its own members.

In Co-operation a new social order is conceived of, and it has been partially worked out in these associations which have gained new life within a generation. The moving impulse here is in the same idea. We have already discussed the proposition that labor produces all the values of society, and should possess them through a new and better process of distribution. Walker, in his treatise on wages, has shown that the main motive of the co-operators is "to be rid of the *entrepreneur*." We can leave out the capitalizer,—that is, replace him by a laborer who is an inferior operator,—but whether society will gain thereby remains to be proved. If Society does not gain, the laborer will not finally gain.

"But industrial co-operation, in the sense in which the word is now used, means not a union for increasing mechanical force, but for the purpose of obtaining the profit of the transaction, and having it equitably distributed among those who do the work. . . . In competition, capital buys labor; in co-operation, labor buys capital,—the whole distinction of principle lies there. Capital is used in co-operation and honestly paid for, but the capitalist is excluded. Capital is a commodity, not a person. The worker is the sole person concerned in co-operation."<sup>1</sup>

These are the words of Holyoake, the most rational advocate of Co-operation. They split on the same rock which shatters the capitalist when he claims that capital is his, without regard to the social laws which created it. I have shown<sup>2</sup> that there is no such antithesis as

<sup>1</sup> Holyoake : History of Co-operation, pp. 68, 88.

<sup>2</sup> Introduction, p. 4 *et seq.*

Mr. Holyoake states ; that capital cannot buy labor, nor can labor buy capital. We will not beat over the chaff of capital definitions ; but think for a moment what takes place in our illustration of the shoemaker. Here we have the street well laid, ordered, and governed ; the shop built out of long experience ; the last and tools shaped by the labor of generations ; the leather a product of combined civilization ; the laborer who sews upon the material. Somewhere there is an employer who watches this current, and cuts and shapes the material on which the sewer works. Then there is the citizen, or traveller, who, because his shoes are worn or pinch him, or because the toes are round while others wear square ones, desires a new pair fitted to his particular fancy. To say that the laborer alone or in association,— i. e., because he is a laborer as distinguished from a capitalist, master-shoemaker or anybody else,— hires all or any part of this, is absurd. This pushes the power of labor or money far beyond any possible limits of civilization. As well say the laborer pays for his right to hurrah for the Stars and Stripes, or the Union Jack. How does he pay for it, and when ?

It is folly to write the words competition and co-operation, and say that either changes the essential nature of this social transaction, when these shoes are made and sold. If you transfer dozens of little shops, and mass them into one factory employing a hundred laborers and modern machinery in turning out shoes by the gross, the principle is the same. We generalize the aching or fickle feet of the wearers, give the laborer more wages at the machine than he formerly earned with the awl; but nevertheless the same process of capital, labor, and capitalizing into new capital goes

on which occurs in every shoemaker's shop in the civilized world. A new product comes out. The shoes are not capital and labor, leather and sewing, any more than water is oxygen and hydrogen ; water is a new substance resulting from the union of the simple elements.

Co-operative stores have succeeded and attained to large proportions in England. The parliamentary returns in 1877 showed 12,000 societies in operation, and their purchases are rated at £10,609.15. Mr. Holyoake states that in the same year the wholesale associations sold £2,791,477 value in goods, using £414,462 of capital, their own and borrowed. He estimates that if the distributing stores should confine their purchases to "the wholesale" in which they are interested, that the business could be carried up to ten million pounds. These operations include capital and capitalizing. There is hardly any labor, as we usually understand that term. Where a number of people with homogeneous wants associate properly, there is little difficulty in supplying them through co-operation. Without doubt, the working people who have engaged in these enterprises have gained a valuable education, as well as the habit of economy, from their conduct. Probably such a trade as A. T. Stewart organized thirty to forty years ago could not be made by the co-operative plan. That was a step forward in social economy, and needed the mastering effort of a born capitalizer to bring it about.

Attempts have been made, but few have succeeded, in applying the Holyoake theory of co-operation to productive enterprises in England.

" Farms, mines, mills, manufactories, ships, banks, building associations, are what are meant by productive societies. These have not made much way hitherto in co-operative

hands. . . . Joint-stock companies are being successfully conducted by working-men. They do not yet, to any creditable extent, take the workmen into partnership; but they do surmount the difficulties of manufacturing management. . . . No one dreamt that when these obstacles had been removed the effect would be that large bodies of these working-men would combine to use the savings on their own consumption, not to employ themselves, but to employ other working-men to work for them, that they might put the profits in their own pockets. This is done in Oldham with an absurd fervor."<sup>1</sup>

The Oldham district contains numbers of these joint-stock associations, usually called co-operative enterprises. It dislikes I cite Mr. Holyoake's opinion merely to show Joint-stock Capitalizers that there is no practicable means of bringing about what he terms an "equitable distribution"<sup>2</sup> of the profits of production through co-operation, any more than by competition. As soon as a body of the workmen, through their saving of capital and their skill in producing, achieve a profit, they become their own capitalizers, and take the reward for this new service they render to society. It is not only unwise, it is wrong, to rebuke this tendency, as Holyoake and others of his school do. We must insist again and again that the common instinct of humanity is wiser than the crude notions of theorists, however philanthropic they may be. A better or more "equitable" division will not come by simply thrusting one of the elements out of the problem. Labor cannot convert itself into capital through itself, and alone; it must co-ordinate other elements with itself.

We can illustrate this out of political history. A

<sup>1</sup> Holyoake : History of Co-operation, pp. 132, 135.

<sup>2</sup> See *ante*, p. 287.

pure democracy has never succeeded in managing affairs for any long period. When, in the changes of time, the mass of individuals have attained control of the State, they have soon made a representative in the person of a despot or a dictator. Stable civilized government parcels out power and co-ordinates it carefully in ranks, districts, or institutions. Through this co-ordination, the machinery of State works regularly, and the order of society is secured. In the economy of labor, and in the social order which rests on economic conditions, the principle is the same. A body of laborers cannot vote their effort into capital, or vote capital into their coffers, any more than a body of chemists can vote oxygen and the other gases into a new substance. Some one, or several together, must invent a new mode of transmuting the old substances into new, and then the result is accomplished using all the forces at hand. We cannot create power in a mass of individuals,—power of any sort, economic or political,—and pass that power back again into the same mass; it must go through some medium, just as crude petroleum is refined before it can be rendered into a useful social agent. The common-sense of mankind has always found that the safest repository of economic power—of capital—was in the person nearest the scene of economic development. The man on the spot, who combines labor with the forces of Nature off-hand, he is the deputy of society; and he receives the gains which the combination has produced.

This is an essential principle, and cannot be controlled by legislatures or philosophers. We cannot wholly modify it by any change in the laws of inheritance. The only individual right any one of us possesses is the

right to exist and to try to subsist. Where the State has attempted to make each individual a proprietor in the common property, it has either fallen or taken refuge in the support of a stronger State, as we proved in the case of the Javanese.

But let us leave political analogies, and return to social and economic order. The reason why small farmers and peasant proprietors have been so valuable in all communities is that they have best manifested this principle. The land originally belonged to the State, but it was found much better to parcel it out to cultivators. This was done in a clumsy manner through the count and baron. Yet, on the whole, the result was better than could have been attained by any other mode then known. If, at this moment, through changes in the social current, we are obliged to cultivate land in larger tracts with machinery and more capital, it is useless to quarrel with the fact. A new social genesis begins. The common agricultural hand becomes a skilled laborer earning better pay. The laborer and artisan get their wheat cheaper, and eat beef instead of beans and lentils. The peasant becomes an artisan, for the capital generated on the prairie centres in the city and stimulates more social activity. But a new class of agriculturists comes forward to replace those expelled by the machinery farms of the prairie. The new wants in the cities must be met by numerous products of the soil, which can only be obtained on the spot. Vegetables, eggs, chickens, milk, butter, are and always will be produced on the borders of cities.

Land finally follows the Social need.

Small holdings of land, either in fee or by lease, are worked near the cities; and a new class of thrifty agri-

culturists is coming forward. It will be said that this is the life of a new country: then older countries must imitate its prosperous features, or they will decay.

This is the larger co-operation which society brings about. I am not opposing Mr. Holyoake's, and would desire every success possible for it. Whatever can be accomplished by these means is a social gain. The joint-stock companies of Oldham are chiefly employed in making cotton yarns and fabrics. The cotton manufacture in England, though a complex mechanical process, has become quite simple in an economic sense. The machinery is all developed, and for sale in the market; the business is closely classified, and the processes are well understood. It is quite possible for a group of skilled laborers and "overlookers" to join as partners and work successfully, or "surmount the difficulties of manufacturing management," as Mr. Holyoake puts it. With a little capital they produce more, hire labor, and build up a larger producing force. But this result does not satisfy him; for it does not give to the laborer the whole distribution of the profit which labor, or labor and capital together, earns. It is true; and it is true because the converse is impossible. Labor cannot get all things because it cannot produce them, as I have said in so many different forms of expression.

Let us examine the social working of a manufacture carried on by an individual. A Western manufacturer in the year 1879 made 20,000 carriages of the style called the light covered buggy. They were all retailed, or sold singly, and in this manner. Agents would go into each district two or three weeks before a sale, and find out the probable wants of the community; they would advertise the

Competitive power of individual.

coming auction with all the skill needed to attract attention, just as the circus or show advertises ; then they would obtain from some banker or capitalist the name of every man whose note he would discount without recourse for \$100. At the appointed time the wagons would arrive by railway. Although varying in pattern somewhat for different tastes, they were all of about one value, or about \$85. When the auctions were spiritless, and the wagons would not average about \$85, the agents would stop selling, and forward the surplus to another district. When the sale was over, they would carry the notes to the local capitalist, convert them into solid cash, and close accounts with that district. This business amounted to \$1,700,000, and the profit was about six per cent, or say \$100,000. The manufacturer employed 500 men, more or less. What a nice social combination was effected here ! Every legitimate means was used with the highest economy to bring producer and consumer, buyer, seller, and laborer, together. All that local credit and social stimulus among buyers, joined to the ready adaptation of products to wants, could accomplish, was rendered by this one individual firm, or partnership, conducted in the usual way. It is hard to conceive how carriages could be made more cheaply or distributed more skilfully, if we had all the power of a despot over both producer and consumer. The laborer was certainly well off in an establishment so thoroughly organized, and the consumer received a good value for his \$85. The \$100,000 was not a large price to pay to him who could invent and master this splendid work of civilization. Mr. Holyoake would say that these laborers should "hire" the capital, and divide this profit of

\$100,000 among themselves. Impossible ! You might as well claim that a directory chosen from the privates of the Austrian armies could have beaten the great Napoleon.

For these reasons, thorough socialists and communists have maintained that all profit was wrong in essence, and that affairs should be conducted without that element of gain on each transaction which comes through the operation of capitalizing. Nature grants nothing unless we first overcome a resistance, an inertia, which is the basis of order. So society gives rewards ; but only yields them when the seeker has overcome the resistance of the previous condition, the established order of labor and exchange. The force of this resistance is measured in the profit.

Co-operation will serve society better and better as time moves on ; it can never master the social order out of which it grows. It is only one method of society, and can never become the basis of society, the social principle in itself. Capital as well as labor will adopt the method in all the processes of production which will admit it. The system of job-work, paid by the piece, has already changed the course and enlarged the progress of many industries. It is a minor form of co-operation, readily applied to the ever-varying wants of civilization. The Trades-Unions have opposed this principle, and this alone reveals the unsocial character of their organization. The very division of labor which makes their associations possible, requires the co-operative power of piece-work to accomplish its ends. Society seeks more and better production through the stimulus which pay by the piece gives each individual

workman. The Union autocracy says the piece-worker has no right to better earnings, because thereby the control of labor may pass from the hands of the Union.

It is probable that these minor forms of co-operation will be much extended, and modify the operations of our present industries. Great corporations will bind their best laborers and skilled servants more closely to their interests by long tenure, retiring pensions, and rewards for faithful service. The French have gone farthest in this direction. Smaller associations may and probably will admit the better classes of laborers to a share in their profits. One of the most useful forms of co-operation is to be found in the Building and Loan Associations of Philadelphia, which are being gradually introduced into other parts of the United States. These associations have created a respectable portion of the houses of a great city. They show the great results attainable through the harmony of co-operation and competition working together.

Turning to the social and religio-social community, we find that Socialists have not lacked the courage necessary to enforce their convictions. Owen, as is well known, tried his ideas in the New World and failed. Utopia has both illumined and oppressed the dreams of thoughtful philanthropists for centuries. In the Old World it seemed that the machinery of the State, hard and harsh, firmly fixed in the habits of men, prevented the outgrowth of any new forms of social living. America, with its simple political organization, gave a better opportunity to work out exceptional and eccentric communities. Beginning with the Shakers in 1794, numbers of experiments have been tried under almost all conditions. Property in

The outside  
or eccentric  
commu-  
nity.

common was generally the controlling feature in these organizations. Every kind of common family, with and without marriage, was tried. Theological dogmas without number were represented. Noyes, in his "History of American Socialism," enumerates forty-seven failures of one kind and another. The successes he attributes to "the one feature which distinguishes these Communities from the transitory sort is their religion; which in every case is of the earnest kind."<sup>1</sup> He does not claim that religion always brought success. Many of those which failed were conducted by pure and devout souls. They failed from different causes. Warren's experiment, which was one of the most interesting from an economic point of view, failed for "the want of common honesty."

The Yellow Springs (Ohio) Community, though composed of "a very superior class," found in the short space of three months that "self-love was a spirit that would not be exorcised. Individual happiness was the law of Nature, and it could not be obliterated."

Horace Greeley brought to an earnest effort for Socialism a powerful mind practically trained in a long experience of affairs. His opinion is worthy of notice, for it was formed by clear common-sense after close observation. He says:—

"Along with many noble and lofty souls, whose impulses are purely philanthropic, and who are willing to labor and suffer reproach for any cause that promises to benefit mankind, there throng scores of whom the world is quite worthy, — the conceited, the crotchety, the <sup>Greeley's</sup> definition. selfish, the headstrong, the pugnacious, the unappreciated, the played-out, the idle, and the good-for-nothing

<sup>1</sup> Noyes: History of American Socialism, p. 655.

generally ; who, finding themselves utterly out of place and at a discount in the world as it is, rashly conclude that they are exactly fitted for the world as it ought to be.”<sup>1</sup>

The world has never found — and it has tried many ways — but one means of ridding itself of such leaders as Mr. Greeley describes, and that is through the necessity of the dollar. It is a mistake to imagine that social principles or worthy ideas fail for lack of money. In all prosperous communities men are eager to open their purses to any opportunity which will elevate mankind, and improve one individual or many. Many a devoted enthusiast has been set up over and again, sustained at every cost by willing friends, because they hoped, even felt, that such generous energy must be good. It is only in the last resort that society says to the lazy idler, or to the impracticable dreamer, “Work, or starve!”

“The societies which illustrate successful communism in this country are the Shakers, established 1794 ; the Rappists, 1805 ; the Zoarites, 1817 ; the Eben-Ezers, Amana, 1844 ; the Bethel, 1844 ; the Oneida Perfectionists, 1848 ; the Icarians, 1849 ; the Aurora, 1852.”<sup>2</sup>

These societies represent seventy-two communes, and number about five thousand persons including children. Mr. Noyes and Mr. Nordhoff both agree that these are successful examples.<sup>3</sup>

<sup>1</sup> Noyes : History of American Socialism, p. 653.

<sup>2</sup> Nordhoff : Communistic Societies of the United States, p. 386.

<sup>3</sup> “They own over one hundred and fifty thousand acres of land. As they have sometimes been accused of being land monopolists, it is curious to see that even at the highest amount I have given (180,000), they would own only about thirty-six acres per head, which is for this country a comparatively small holding of land.” — *Nordhoff*, p. 386. It is a low estimate of the wealth of the seventy-two communes to place it at \$12,000,000.

Nordhoff does not fully assent to the opinion that religion is a necessary basis of an American commune:

"It is true that a commune, to exist harmoniously, must be composed of persons who are of one mind upon some question which to them shall appear so important as to take the place of a religion, if it is not essentially religious ; though it need not be fanatically held."<sup>1</sup>

He claims that the Oneida example was not a strict commune, but only an association skilfully exploiting the labor of other persons. Since he wrote, this community shows signs of disintegration.

The Oneida and Shaker associations are largely of American descent; the Icarians are chiefly French; the others are German.

The German temperament does best in this form of living. Americans, unless dominated by some powerful conviction, are too restless for the communal life, which requires so much sacrifice of individual tastes and desires.

According to Nordhoff's and Noyes's reports, as well as several observations the writer has made for himself, these successful examples are not prosperous to-day; that is, they are not vigorous, and putting forth new life. They generally live upon capital which was accumulated under a profound social impulse which is dying out in the persons of the present representatives and rulers. Good and well disposed men are found here,—there are hardly any others in the successful communities,—but the ability of the founders has gone out. All the successful associations have had sagacious and energetic leaders, who had ample powers to bring out all the

<sup>1</sup> Nordhoff : Communistic Societies of the United States, p. 387.

resources of the community. The only exception is in the Icarian pure democracy, which Nordhoff thinks confirms the rule. A large part of their success, economically considered, is due to their earlier use of the better trade distribution which is now becoming common. They bought at wholesale, and they sold their own products substantially at retail. They capitalized well the labor and capital which the above powers of association put into their hands. Before establishments like Stewart's prevailed, before labor was organized into large factories, they had an advantage in well-managed trade, in skilfully directed labor. Elder Frederic Evans told the writer that the Shakers could not now compete with the outside world, even in articles where they had attained a just celebrity. Garden seeds, once monopolized by them, now afford but little profit. The passion of this age for much in variety that is cheap, rather than for little and simple that shall be of excellent quality, has driven the trade into larger establishments where the division of labor is more strict.

*They are powerful capitalizers.*

The drift of social life is against them, too. When all villages and most cities were dull, a community administered by strong leaders was an agreeable resort. Now that the steam-whistle soon sounds through any industrious district, wherever situated and however governed, social life rapidly assimilates to the ideas generally prevailing. The Press carries the controlling ideas of civilization everywhere. It is true that the various associations try to mould their young people through literatures of their own, but these literatures are feeble. The results are, no culture, or that of a feeble sort, or the universal culture which soon takes the lively spirits into the larger

world outside. I dwell upon these characteristics of these successful communes, because they throw light on all social living. They have been tried under favorable conditions ; they have had the advantages of new lands, with the rising tide of American life to give value to their properties ; they have suffered little or no interference from the State, and in general have worked out all that was in them of power for good or evil. If there be any exceptional powers of civilization inhering in the commune which society as a whole has not, it would seem that these varying experiments, honestly tried as they have been, should have brought them out. In other words, the commune should not only have existed, it should have grown and have put forth larger flowers of civilization, if it be a necessary force in that civilization.

Nordhoff sketches an enterprise at Anaheim in California, not communistic, which Mr. Holyoake and other co-operators would do well to study. A company of fifty German mechanics in San Francisco, with not one farmer, led by a lawyer, bought land "to be subdivided and improved by monthly contributions from the members, who were meantime to go on working in San Francisco. It was agreed to divide the 1,165 acres into fifty twenty-acre tracts and fifty village lots, the village to stand in the centre of the purchase. Fourteen lots were also set aside for schoolhouses and other public buildings."<sup>1</sup> They had no money or credit to begin with ; the members worked on at their vocations ; the superintendent hired laborers, and irrigated, fenced, and planted the ground with vines.

<sup>1</sup> Nordhoff : Communistic Societies of the United States, p. 362.

"At the end of three years the whole of this labor had been performed and paid for; the vines were ready to bear a crop, and the division of lots (each was assessed at its relative value, then assigned by lottery) took place. Each shareholder had at this time paid in all twelve hundred dollars; a few I have been told fell behind somewhat, but were helped by some of their associates who were in better circumstances. If we suppose that most of the members had no money laid by at the beginning, it would appear that during three years they saved, over and above their living, somewhat less than eight dollars a week, — a considerable sum, but easily possible at that time in California to a good and steady mechanic."<sup>1</sup>

Then the co-operative features disappeared; each owner took his farm, and borrowed money by mortgaging it to build his house.

"And they gradually got out of debt. Not one failed. The sheriff has never sold out any one in Anaheim; and only one of the original settlers had left the place when I saw it in 1872 (15 years from the start). They have no destitute people. Their vineyards give them an annual *clear* income of from two hundred and fifty to one thousand dollars over and above their living expenses; their children have enjoyed the advantages of a social life and a fairly good school. And, finally, the property which originally cost them an average of one thousand and eighty dollars for each is now worth from five to ten thousand dollars."<sup>2</sup>

This enterprise was successfully worked out through the ordinary life of working people. They acquired property and family homes, learned a new vocation, and achieved the best social independence, by using the common means which society affords to all people in

<sup>1</sup> Nordhoff: Communistic Societies of the United States, p. 363.

<sup>2</sup> Ibid. p. 365.

growing communities. The co-operative force which the commune gives was used to acquire the property and credit; then this was dropped, and the elevating and developing power of individual ownership came in to complete the work of founding families. We have seen, in studying the communistic societies, that they have all deteriorated in individual force and capacity since their founders passed away. The successful ones have acquired property, but have not developed larger men and women.

We sketched a wonderfully fine organism in these twelve hundred and fifty-one associations of the city of this time. Beyond these larger associations are the partnerships and families which finally include nearly all the individuals dwelling within the municipal limits. One hundred thousand people are thus associated and bound together by every kind of tie which all human experience has invented or preserved. The tribe and horde, the barbarian and the incipient family were the rude beginnings, the primeval raw material out of which this wondrous structure has been built. It is needless to say that this organism is indestructible.

History gives us in the *Aire* partnership<sup>1</sup> the germ of that civilizing force, that mastering principle, which shall finally bring all the people into definite order. The origin of the family is wrapped in the darkness of the remote past, but in the partnership we can see how man first associated himself with man to prosecute the arts of peace. The associating, grouping force, which for untold centuries had worked for the noble classes almost exclusively, was brought down through the *Aire* into

<sup>1</sup> See *ante*, p. 68.

the grasp of freemen. The common house and land-holder by association made himself a part of that ordered structure which should finally culminate in the State. The freeman never wholly lost this franchise, though he was often deprived of it for the time.

It is true that when Rome was forming the State out of the tribes and tribal cities of Europe, she disordered the primitive civilization which her own imperial order replaced. The Middle Ages inherited from this period varied classes of humanity,—mainmortables, serfs, colonists, villains, free and unfree waifs and strays from other times and other social systems. The author of the "Holy Roman Empire" has shown how men in those days yearned for a strong power, a centre of force, which should compel all men and things, and restore peace and stability to the troubled world. These ardent dreamers looked for some external authority which should render all things unto itself; they little thought that the force would ultimately come from within, that the men and women to be governed would at last govern themselves.

These serfs and villains, mainmortable or adscripted, have developed into the *persons* of modern life. They have become equal participants with the descendants of the nobles and the gentry, the barons and the captains, on whom society rested in the crude mediæval time. They have reached these rights, they have come into these social privileges, only by passing through the social structure we have sketched in these pages. Property, the social tissue of the body politic, held in the hand of the persons, the social representatives of organic civilization, rested on land, the universal substance of Nature herself.

These persons, these socially developed individuals, have been born into the Family, into the <sup>Substance</sup> Church, now into the Guild or Corporation, <sup>of Society.</sup> now into the Municipality, or have been born with such tendencies that they seek these institutions naturally, and are included in their organic folds. They move freely within these limits, and pass from country to country, from nation to nation, almost at will. Yet they move, too, with a certain fatalistic direction; they cannot escape heredity, and they can live only under the social laws we have stated. This principle holds good even through apparent failure and disaster. The city develops too much power of the person, too much control of the individual over things and institutions. Then, as we saw in the revolution of the Paris Commune, the country rallies to maintain instituted order, and subdues the civic persons, who, losing their individuality, have fallen back into the masses of anarchy. The landed persons, always the holders of the older, more common hence more valuable sources of civilization, restore the instituted liberties which no city in the world's history has been able to maintain for itself alone.

Property, land, prescriptive right, corporate privilege, are now convertible into that subtle and mighty essence, — Capital. The philosopher's stone is no longer a fabled fancy; gold follows transmutation, but not through the smoke of the retort. Exchange and inter-  
course have fused and liquefied all material <sup>Capital the Social</sup> things, together with the immaterial values <sup>Social</sup> essence. these things have imbibed from civilization. These values are social, and can be preserved only by the thorough administration of the social laws we have sketched. This potential essence — capital — is as vola-

tile as it is powerful. It escapes the clumsy clasp of the State, not into other hands, for the strange creature then transmutes again, and becomes a thing of nought. This is the crucial point in the enchantment; here the vision fades, the riches crumble, the elements resume sway, and the common man stands portionless upon the common earth. When the social order is broken, immaterial values flee the material things, and we stand like the wight who has displeased the fairy, stripped of the gorgeous tissues of wealth and civilized splendor. Land, rivers, rocks, and mines remain, but smiling crops, gold and jewels, the immaterial values springing from the order of prosperity, have disappeared.

Where rests the enchanter's wand? Is it in the vote of a majority? Where is the power outside the individual, which shall give him a sphere beyond himself, and independent of his passions, superior to his own moral essence and condition? Men worshipped Hercules and then Jehovah; they besought pope and potentate; they sued at the bar of the State; and now they would win the favor of the Majority in that State.

"There are no more political questions; there are only social questions." — METTERNICH.

"Social philosophy is in essence Science and Peace." — VICTOR HUGO.

"Political questions are solved by blows of the sword; but the sword is powerless against Social Questions." — GIRARDIN.

Statesmen and closet thinkers agree upon the lines which divide politics from social government. How that social principle, that new regulative power now moving thousands where government once involved only tens, — how this mighty spirit is to be controlled

and directed is not so clear. The third Napoleon, Cavour, Bismarck, — all practical men, — directed their governments by the ordinary political machinery ; but at the same time they played with an undercurrent of social enthusiasm, which sometimes bore the ship of state on its true course, but might at any time have dashed it in pieces. Garibaldi, a fantastic dreamer, a knight-errant stumbling through the nineteenth century, waved a red shirt, and the Austrian empire, the home of Metternich, trembled to its foundations.

The State *qua* State, the central force embodied in government, whether wielding the mystic sword of the spirit or the material sword of the flesh, no longer controls the social feelings, the social interests of men. For the State, as well as the Church, is an institution; and back of all instituted things is the new social force, the new creative power, whose creatures Metternich and the absolutists justly feared. Political absolutism is ended, or can rule only by negation, as it does in Russia. Social absolutism begins. We need not fear the majority : a majority involves a minority, and while the parties are forming, order begins and will never end. It is the mass, without greater or less, the whole with no parts, which thoughtful men must consider, and if it be necessary must master. Down with the family, the church, property, heredity ! says the International. Nihilism is a new social life, its dreamers say ; a new State which, through the death of all institutions, shall be born into a purer, larger life.

Capital and Labor are not different in kind from other institutions. Neither exists without the other ; both exist through the constant change, the capitalizing

of the one into the other. Lassalle's "instrument of Labor become autonomous," Marx's<sup>1</sup> "Capital the equivalent of dead Labor," mean the absolutism of the "Social Question," as Metternich put it. This sort of absolutism is Nihilism.

I do not state the whole question; but there are some limits which I claim to have reached  
Divine order of in this discussion. The power of Labor in Society. association, the power of Capital in its own essence, are subject to the power of Society. Society is social order,—the order of all the elements, all the principles and established results, of all past life. In the bosom of this divine order rest the four institutions,—the Family, the Individual, the Church, the State!

<sup>1</sup> See Note, p. 245.

## **INDEX.**



## INDEX.

---

- ACCOLAS, Prof. Émile, quoted, 29 *n.*  
Aire Partnership, the, of the Irish, 68 *n.*; importance of, 70; its effect on Person and Property, 78; it crosses the mediæval corporation, 79; points of similarity between it and the Guild, 146, 147.  
American Republic, the, what it has done for the Individual, 38, 39, 40.  
Arbitration, defined, 219, 220; Boards of, and their work, 220, 221, *et seq.*; contrasted with Unionism, 225.  
Aristocracy, caste fatal to, 41.  
Aryan household, the, an Association of Individuals, 12, 13, 14; right of succession in, 17; its basis in religious belief, 18; relative importance of Persons and Property in, 19; prehistoric in its origin, 19.  
Aryan races, their belief in an invisible world of spirits, 14–16.  
Assets, origin of term, 67.  
  
BALLOT, the, as an educator of the citizen, 183, 184.  
Baudrillart, quoted, 80 *n.*  
Brassey, quoted, 210, 211.  
  
CAIRNES, Prof., quoted, 204, 205, 241, 252.  
Capital, consideration of what it is, 6; the first social factor, 24; social rights of, 29; the use and possession of, 33; cattle the ancient form of, 66, 67; and capitalizing discussed, 94, 95; defined, 239, 240, *et seq.*; regarded as the antithesis of labor, 243; not "dead labor," 243; Marx's theory of, 244, 245; Nihilism the outcome of Marx's doctrine of, 245, *n.*; Jevons's theory of, 245, 246; Mill's theory of, not satisfactory, 246; the element of time in, 247; the middleman and his function as regards, 248; its intimate relation with all life, 249, 250; the movement of, modified by will and habit of life, 250, 251; Wages-Fund a constituent of, 251, 252; made social by Capitalizing, 259, 260; influences politics through social pressure, 260, *n.*; Parsimony, or "Abstinence," A. Smith's view of, 260, 261; it is subject to the Will, 266, 267.  
Capitalizer, social function of, 7, 27, 28; social rights of, 31; the Social Deputy, 291, 292.  
Capitalizing, definition of, 7; its embodiment in person called a capitalizer, 7; universal application of the principle of, 8; a connecting link between civilization and savagery, 9; illustration of, from shoemaking, 32; the fecundating process of, 34.  
Church, the, exists through, not above, Society, 43.  
Citizen, development of the individual, 38; both a social and a political being, 40; evolution of

- the, too rapid, 182, 183 ; effect of the ballot on the, 183, 184.
- City, the, as a social organism, 282, 283 ; the three groups of associations in, 283, 284, *et seq.*; indestructible organism of, 303.
- Commune, the, in Lombardy, 121, 122 ; Paris, how related to International Association, 230, 231 ; in Paris, working-class pre-eminent in, 232 ; effect of, in Paris, 232, 233 ; outside or eccentric, 296, 297, *et seq.*; Nordhoff's idea of, 299 ; a powerful capitalizer, 300 ; the comparative failure of, 300, 301 ; enterprise at Anaheim, Cal., contrasted with, 301, 302.
- Communism, the unsocial individualism of, 44, 45 ; as illustrated by the ant, 100 ; superseded by individual and social functions, 100, 101.
- Competition, of Employers, 212, 213 ; compared with combination, 213, 214.
- Consumption, Mill's theory of productive and unproductive, 261, 262 ; folly of Mill's theory of, illustrated, 262, 263, *et seq.*; Senior's theory of unproductive, 265.
- Contract, origin of, 58.
- Co-operation, social and economic principles of, 287, 288 ; how related to competition, 288, 289 ; as applied to productive enterprises, 289, 290 ; dislikes Joint-stock capitalizers, 290 ; contrasted with competition, 294 ; minor forms of, 295, 296.
- Corporation, the, personality of, 105 ; Roman *collegium* the first form of, 105, 106 ; binds society together in Gaul, 108, 109 ; the Celtic Aire an incipient form of, 111, 112 ; tithing the basis of the town, 114, 115 ; persons bound into, by the frank-pledge, 115 ; in Germany is imperfect, 118, 119 ; of the Continent different from that of England, 122, 123 ; of German artisans, how related to municipality, 123, 124 ; separation of its functions, 124, 125 ; limitation of its powers by *ultra vires*, 125, 126 ; it is "without a soul," 126, 127 ; early development of, in America, 128 ; rights of, as an individual, 129 ; social offices of, 129, 130, *et seq.* ; compared with Aristocracy, 131, 132 ; a chief agent of peace, 132 ; not in itself a capitalist, but a capitalizer, 133 ; it is the servant, not the master, of society, 134 ; the agent for the distribution of capital, 134, 135 ; it is not a monopolizer, illustrated by railway consolidations, 136, 137 ; the future of, and its effect on society, 139, 140.
- Cost, Socialist theory of, 98, n.
- Craft-guild, a division of the guild, 172, 173 ; members of, become capitalists, 173 ; exclusive nature of, 174.
- EPONYM, the, description of, 20, 21.
- FAMILY, the, a purely social institution, 12 ; Roman organization of, 57, 58.
- Feud, right of, originally regarded as inalienable, 73 n.
- Feudalism, as illustrating the social character of the Person, 63, 64, *et seq.* Irish local law of, 64, 65 ; the Frankish Manse of, and its tributary households, 109, 110.
- France, *Droits Féodaux* in early, 80 ; social organization in mediæval, 81 ; minute classification of freemen and serfs in early, 82, 83, *et seq.*
- Frith-guild, the, in England was founded in the eleventh century on old usages, 156, 157 ; the social character and religious tendency of, 157, 158 ; the beauty of the bond of union in, 159 ; as related to the town-guild, 161, 162 ; government of, 165, 166.
- GENS, the, institution of, its basis

- and constitution, 19, 20, *et seq.*; Morgan's idea of the Roman, 20, *n.*; among the North American Indians, 52.
- George, his "Poverty and Progress," quoted, 4, *n.*
- Girardin, quoted, 306.
- Greeley, Horace, quoted, 296.
- Guild, the, passes into the municipality, 117, 118; compared with the Corporation, 143; based on fellowship, 144; its origin, 144, 145; how related to the Household, 145, 146; the Aire partnership an early form of, 146, 147; social dues of, as distinguished from modern taxes, 147; it helps make the modern citizen, 148, 149; effect of, on the freeman, 149; sense of honor in, as exhibited in the use of money, 150, 151, *et seq.*; not essentially anti-feudal, 153; in Northern France, 154; necessarily too narrow in its spirit, 154, 155; social conditions in the time of, 166, 167; government of, separates from that of town, 170; caste division in the, 170, 171; breaks up into craft-guilds, 172, 173; gives rise to Trades-Union, 174; subsequent form of, incompatible with modern freedom, 174, 175; market regulations in time of, 175, 176; privileges in, fortified by custom, 177, 178; effect of political differentiation on, 179, 180; outworn, 184, 185.
- HARRISON, F., quoted, 215, 216, 253.
- Hearn, Dr., quoted, 18, 20, 21.
- Hearth and Home, significance of the, among the Aryan races, 15, 16, 21, 22.
- Holyoake, George J., quoted, 287, 289, 290.
- Homestead, size of Irish, dependent on physical strength of freeman, 77.
- Honor, the Guild conducive to the early rise of, 150, 151, *et seq.*; in money matters, 151, 152.
- House-father, the (or Household), 12; perpetual succession of, 14; office of, 18; development of, from barbarism to free citizenship, 23.
- Hugo, Victor, quoted, 306.
- INDIVIDUAL, the, Mazzini's idea of the sovereignty of, 234; stands or falls with Society, 234, 235; competitive power of, and its result, 293, 294.
- International Association, the, 225, 226, *et seq.*; not practical, but political, 227; its platform, 228; Geneva branch of, declares for Atheism, 229; Paris Commune, how related to, 230, 231; its control of the National Guard, 231; destroys all order, 233, 234.
- JEVONS, Prof., quoted, 242.
- LABOR, as related to capital, ground of dispute concerning, 4; change of, into capital, 6; social rights of, 28, 29; social law of, 43, 44; Proudhon quoted on, 96, 97, *et seq.*; alone cannot associate, 99, 100.
- Labor Question, the, stated, 3.
- Land, Anglo-Saxon division of, into folk-land and book-land, 76 *n.*; social bearing of, 92, 93.
- Lares, how worshipped by Aryan race, 16; abode of the gentile, 21.
- Larousse, quoted, 21 *n.*
- Lassalle, quoted, on the relation of Labor to Capital, 4 *n.*; his autonomous instrument, 5 *n.*
- Law, mutual dependence the basis of Anglo-Saxon, 76.
- MARKET, contrast between modern and mediæval, 175, 176, *et seq.*; the law of the, promotes growth of the individual, 193.
- Martin, Mélinon, his "Le Travail Humain" quoted, 28 *n.*
- Marx, Karl, quoted, 244, 245.

- Metternich, quoted, 306.  
 Mill, J. S., quoted, 200, 240, 241,  
     246, 261, 262.  
 Monopoly, and its final effect dis-  
     cussed, 138, 139.  
 Municipality, the beginning of,  
     how related to the Corporation,  
     112, 113; development of, in  
     France, 119, 120; maturity of,  
     in America, 279.
- NEXUM, how connected with con-  
     tract, 61, 62.
- Nordhoff, quoted, 299, 302.
- OWNERSHIP, the principle of, 51.
- PERSON, the, with reference to So-  
     ciety and the State, 47; stands  
     on contract, 60; a social charac-  
     ter, 62, 63, *et seq.*; how related to  
     the Aryan House-father, 126, 137;  
     development of, by association,  
     into the Corporation, 130, 131.  
 Price, principles underlying, 177;  
     effect of Exchange on, 179.  
 Production, the source of, 5.  
 Privilege, in the Guild. Its con-  
     trol of property and price, 177,  
     178; contrast between ancient  
     and modern, 180, 181.  
 Property, definition of, 29 *n.*; dis-  
     cussed, 51, 52, *et seq.*; Morgan  
     quoted on early form of, 52;  
     Laveleye's theories on the foun-  
     dation of, 54; right of, "not  
     natural but social," 54, 55; Ro-  
     man terms of, 55, 56; social evolu-  
     tion of, 57; personal and joint,  
     58, 59, *et seq.*; essential to the  
     personality of a freeman, 74;  
     the basis of rank among free-  
     men, 74 *n.*; Fustel de Coulanges  
     quoted on rights of private, 80 *n.*  
     usurpation of, by lords and bish-  
     ops, 85; Person rises above, 86,  
     87; Laveleye's theory on the  
     rights of individuals to, dis-  
     cussed, 87, 88; summary of the  
     argument on Person and, 90,  
     91, *et seq.*; Society, not land,  
     the source of wealth, 92, 93;
- Proudhon quoted on, 95, 96, *et  
     seq.*; Proudhon's "impossibil-  
     ity" of, 99.  
 "Protection," the nerve current of  
     feudal society, 78, 79.
- REPRESENTATIVE PRINCIPLE, the,  
     its place in political develop-  
     ment, 23.
- Rhode Island, settlement of, a  
     "lively experiment," 280.
- Ricardo, quoted, 240.
- Rogers, Thorold, quoted, 247.
- SACRA, institution of, 14, 15, *et seq.*
- Senior, quoted, 242, 265.
- Slavic race, the, its work for civil-  
     ization, 11 *n.*
- Smith, Adam, quoted, 239, 240,  
     260.
- Social Group, the modern, 27; dy-  
     namic movement of, 32; attrac-  
     tion and repulsion in the, 32, 33;  
     final force in, 36; course of de-  
     cay in, 38.
- Social Institutions, the, discussed  
     in this book, 47, 48.
- Socialism, element of Nihilism in,  
     45; the individual of, 46; it con-  
     fiscated profit, 295; Greeley's def-  
     inition of, 297, 298.
- Social Law, the, as applied to La-  
     bor and Capital, 48.
- Social need, the, 10; its effect on  
     Capital and Labor, 25; land fol-  
     lows, 292, 293.
- Society, in its Aryan origin, 11;  
     the four great institutions of  
     modern, 11, 12, 190; definitions  
     of, 23, 24; individual members  
     of, 26; primary rights of indi-  
     vidual members of, 26, 27, *et seq.*;  
     three functions of modern, 28;  
     Equality in, how regulated, 36,  
     37; individual and social force  
     in, compared, 42; the church  
     subordinate to, 43; Persons and  
     Property essential factors of mod-  
     ern, 89; duty of individuals to,  
     181, 182; growth and develop-  
     ment of, 271; principle of rep-  
     resentation in, 272; development

- and elevation of the individual in, 272; relation between Person and Property in, 273, 274; elasticity of, in America, 274; development of citizen from slave of ancient, 274, 275; Town and County organization in American, 276, 277; Sovereignty crops out in American, 277, 278; organization in, reaches through all classes, 285, 286; Substance of, 305; Capital the essence of, 305, 306; the political and social elements in, compared, 306, 307; divine order of, 308.
- Sovereignty, the, of the people, development of, 116.
- Spencer, Herbert, quoted, 15 *n.*
- Spirit world, the old Aryan idea of, 14.
- State, the, basis and development of, 38, 39 *et seq.*, 303, 304; political supremacy of, 41; developed from small associations, 281; representative, not autocratic, 307.
- Strikes, History of, 208, 209; natural right of laborer to, defined, 218; as the organized self-interest of a class, they are a social oppression, 219.
- Supply and Demand, its effect on Labor and Capital, 200, 201.
- TANISTRY, the custom of, 17.
- "Taurcrech," the, of the Irish, discussed, 67, 68.
- Testut, Oscar, quoted, 228.
- Thornton, Wm. T., quoted, 201, 208, 209, 213.
- Tithing system, the, 74, 75; the basis of the town corporation, 114, 115.
- Town, the, as distinguished from Village and City, 281, 282.
- Town-guild, the, as related to the frith or social guild, 161, 162; the basis of the town, 163; provisions for conducting trade and their effect, 163, 164; in Denmark as compared with that in England, 166; the guild-hall of, a castellated market, 168; its relations to the nobility, 169.
- Trades-Union, the, development of, from the Guild, 174; how promoted by political repression in England, 184; claims and objects of, 189; its attitude toward Society, 190, 191; Howell quoted on, 191; are the contests of the, a source of gain socially? 191, 192; refused recognition by the old jurists, 192; idea of, due to false dogmas, 194; statistics of, 194, 195; English report on, cited, 195; Thornton's theory of its effect on wages, 196, 197, 208, 209; terms and practices of, in England, mentioned, 202, 203; denounced by Prof. Cairnes, 204, 205; crushes all artistic impulse, 206; the vice of, 206, 207, *et seq.*; great mistake of, 215; the work of, should be left to society, 217.
- Tribal organization, the germ of the State, 11, 12.
- UNIVERSITAS, the, analysis of, 106, 107; its powers, how related to the *collegium*, 107, 108.
- WAGES, Thornton's theory of, 196, 197; Warren's theory of, 198; influence of supply and demand on, illustrated, 198, 199; raised by Prosperity, not by Strikes, 210, 211; Prof. Walker's theory of, 254; paid out of their own product, 255, 256; quantity of, turns on relation of Capital to Society, 257, 258; distinction between larger and higher, 258.
- Wages-Fund, dogma of, is misleading, 251; Prof. Cairnes's theory of, 252; Harrison's theory of, 253.
- Walker, Prof., quoted, 248, 254.
- Weeks, Mr., quoted, 220.
- Wergeld, the, origin of, 71; an outgrowth from personality, 72, 73; settlement of feud by, 73 *n.*; Charlemagne's regulation of, 111.